

Senate Bill No. 1039

CHAPTER 483

An act to amend Sections 650, 1246, 1265.1, 2541.3, and 2541.6 of the Business and Professions Code, to amend Sections 49452.8 and 51796 of the Education Code, to amend Sections 298.5, 307, 355, 358, and 422 of the Family Code, to amend Sections 1322, 8592.1, and 8593.6 of the Government Code, to amend Sections 1266.9, 1522.08, 1575.7, 1728.1, 1797.153, 100105, 100922, 101040, 101080, 105440, 109277, 110242, 110806, 113763, 113774, 115730, 123371, 123485, 124250, 124900, 125002, 125118, 125335, 125342, 127446, 130501, and 131006 of, and to add Section 131071 to, the Health and Safety Code, to amend Sections 12693.325, 12693.98, and 12693.98a of the Insurance Code, to amend Sections 830.3, 1203.097, 7501, 7502, 7510, and 13823.15 of the Penal Code, to amend Sections 13557 and 32601 of the Water Code, to amend Sections 14043.46, 14087.54, 15904, and 16953.3 of the Welfare and Institutions Code, and to amend Section 2 of Chapter 610 of the Statutes of 2006, relating to health.

[Approved by Governor October 11, 2007. Filed with
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LEGISLATIVE COUNSEL'S DIGEST

SB 1039, Committee on Health. State Department of Public Health.

Existing law, the California Public Health Act of 2006, commencing July 1, 2007, establishes the former State Department of Public Health, renames the State Department of Health Services as the State Department of Health Care Services, and redistributes between these 2 departments the functions and responsibilities of the former State Department of Health Services.

This bill would make technical and conforming changes.

Existing law, until July 1, 2007, expressly requires that the appointment of the Chief Deputies of the State Department of Health Services be subject to Senate confirmation.

Commencing July 1, 2007, existing law does not specify whether the appointment of the Chief Deputies of the State Department of Public Health or of the State Department of Health Care Services are subject to Senate confirmation.

This bill would specify that appointment of the Chief Deputies of the State Department of Public Health and of the State Department of Health Care Services are subject to Senate confirmation.

The people of the State of California do enact as follows:

SECTION 1. Section 650 of the Business and Professions Code is amended to read:

650. (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally-qualified health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility; provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) (1) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, necessary and used solely to receive and transmit electronic

prescription information in accordance with the standards set forth in Section 1860D-4(e) of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) in the following situations:

(A) In the case of a hospital, by the hospital to members of its medical staff.

(B) In the case of a group medical practice, by the practice to prescribing health care professionals that are members of the practice.

(C) In the case of Medicare prescription drug plan sponsors or Medicare Advantage organizations, by the sponsor or organization to pharmacists and pharmacies participating in the network of the sponsor or organization and to prescribing health care professionals.

(2) The exceptions set forth in this subdivision are adopted to conform state law with the provisions of Section 1860D-4(e)(6) of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (42 U.S.C. Sec. 1395w-104) and are limited to drugs covered under Part D of the federal Medicare Program that are prescribed to Part D eligible individuals (42 U.S.C. Sec. 1395w-101).

(3) The exceptions set forth in this subdivision shall not be operative until the regulations required to be adopted by the Secretary of the United States Department of Health and Human Services, pursuant to Section 1860D-4(e) of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (42 U.S.C. Sec. 1395W-104) are effective. If the California Health and Human Services Agency determines that regulations are necessary to ensure that implementation of the provisions of paragraph (1) is consistent with the regulations adopted by the Secretary of the United States Department of Health and Human Services, it shall adopt emergency regulations to that effect.

(f) “Health care facility” means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison or by imprisonment in the state prison and a fine of fifty thousand dollars (\$50,000).

SEC. 2. Section 1246 of the Business and Professions Code is amended to read:

1246. (a) Except as provided in subdivisions (b) and (c), and in Section 23158 of the Vehicle Code, an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for the purpose of withdrawing blood or for clinical laboratory test purposes upon

specific authorization from a licensed physician and surgeon provided that he or she meets both of the following requirements:

(1) He or she works under the supervision of a person licensed under this chapter or of a licensed physician and surgeon or of a licensed registered nurse. A person licensed under this chapter, a licensed physician or surgeon, or a registered nurse shall be physically available to be summoned to the scene of the venipuncture within five minutes during the performance of those procedures.

(2) He or she has been trained by a licensed physician and surgeon or by a clinical laboratory bioanalyst in the proper procedure to be employed when withdrawing blood in accordance with training requirements established by the State Department of Public Health and has a statement signed by the instructing physician and surgeon or by the instructing clinical laboratory bioanalyst that the training has been successfully completed.

(b) (1) On and after the effective date of the regulations specified in paragraph (2), any unlicensed person employed by a clinical laboratory performing the duties described in this section shall possess a valid and current certification as a certified phlebotomy technician issued by the department. However, an unlicensed person employed by a clinical laboratory to perform these duties pursuant to subdivision (a) on that date shall have until January 1, 2007, to comply with this requirement, provided that he or she has submitted the application to the department on or before July 1, 2006.

(2) The department shall adopt regulations for certification by January 1, 2001, as a certified phlebotomy technician that shall include all of the following:

(A) The applicant shall hold a valid, current certification as a phlebotomist issued by a national accreditation agency approved by the department, and shall submit proof of that certification when applying for certification pursuant to this section.

(B) The applicant shall complete education, training, and experience requirements as specified by regulations that shall include, but not be limited to, the following:

- (i) At least 40 hours of didactic instruction.
- (ii) At least 40 hours of practical instruction.
- (iii) At least 50 successful venipunctures.

However, an applicant who has been performing these duties pursuant to subdivision (a) may be exempted from the requirements specified in clauses (ii) and (iii), and from 20 hours of the 40 hours of didactic instruction as specified in clause (i), if he or she has at least 1,040 hours of work experience, as specified in regulations adopted by the department.

It is the intent of the Legislature to permit persons performing these duties pursuant to subdivision (a) to use educational leave provided by their employers for purposes of meeting the requirements of this section.

(3) Each certified phlebotomy technician shall complete at least three hours per year or six hours every two years of continuing education or

training. The department shall consider a variety of programs in determining the programs that meet the continuing education or training requirement.

(4) He or she has been found to be competent in phlebotomy by a licensed physician and surgeon or person licensed pursuant to this chapter.

(5) He or she works under the supervision of a licensed physician and surgeon, licensed registered nurse, or person licensed under this chapter, or the designee of a licensed physician and surgeon or the designee of a person licensed under this chapter.

(6) The department shall adopt regulations establishing standards for approving training programs designed to prepare applicants for certification pursuant to this section. The standards shall ensure that these programs meet the state's minimum education and training requirements for comparable programs.

(7) The department shall adopt regulations establishing standards for approving national accreditation agencies to administer certification examinations and tests pursuant to this section.

(8) The department shall charge fees for application for and renewal of the certificate authorized by this section of no more than twenty-five dollars (\$25).

(c) (1) (A) A certified phlebotomy technician may perform venipuncture or skin puncture to obtain a specimen for nondiagnostic tests assessing the health of an individual, for insurance purposes, provided that the technician works under the general supervision of a physician and surgeon licensed under Chapter 5 (commencing with Section 2000). The physician and surgeon may delegate the general supervision duties to a registered nurse or a person licensed under this chapter, but shall remain responsible for ensuring that all those duties and responsibilities are properly performed. The physician and surgeon shall make available to the department, upon request, records maintained documenting when a certified phlebotomy technician has performed venipuncture or skin puncture pursuant to this paragraph.

(B) As used in this paragraph, general supervision requires the supervisor of the technician to determine that the technician is competent to perform venipuncture or skin puncture prior to the technician's first blood withdrawal, and on an annual basis thereafter. The supervisor is also required to determine, on a monthly basis, that the technician complies with appropriate venipuncture or skin puncture policies and procedures approved by the medical director and required by state regulations. The supervisor, or another designated licensed physician and surgeon, registered nurse, or person licensed under this chapter, shall be available for consultation with the technician, either in person or through telephonic or electronic means, at the time of blood withdrawal.

(2) (A) Notwithstanding any other provision of law, a person who has been issued a certified phlebotomy technician certificate pursuant to this section may draw blood following policies and procedures approved by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000), appropriate to the location where the blood is being drawn and in

accordance with state regulations. The blood collection shall be done at the request and in the presence of a peace officer for forensic purposes in a jail, law enforcement facility, or medical facility, with general supervision.

(B) As used in this paragraph, “general supervision” means that the supervisor of the technician is licensed under this code as a physician and surgeon, physician assistant, clinical laboratory bioanalyst, registered nurse, or clinical laboratory scientist, and reviews the competency of the technician before the technician may perform blood withdrawals without direct supervision, and on an annual basis thereafter. The supervisor is also required to review the work of the technician at least once a month to ensure compliance with venipuncture policies, procedures, and regulations. The supervisor, or another person licensed under this code as a physician and surgeon, physician assistant, clinical laboratory bioanalyst, registered nurse, or clinical laboratory scientist, shall be accessible to the location where the technician is working to provide onsite, telephone, or electronic consultation, within 30 minutes when needed.

(d) The department may adopt regulations providing for the issuance of a certificate to an unlicensed person employed by a clinical laboratory authorizing only the performance of skin punctures for test purposes.

SEC. 3. Section 1265.1 of the Business and Professions Code is amended to read:

1265.1. (a) A primary care clinic that submits an application to the State Department of Public Health for clinic licensure pursuant to subdivision (a) of Section 1204 of the Health and Safety Code may submit prior to, or concurrent therewith, an application for licensure or registration of a clinical laboratory to be operated by the clinic.

(b) An application for licensure of a clinical laboratory submitted pursuant to this section shall be subject to all applicable laboratory licensing laws and regulations, including, but not limited to, any statutory or regulatory timelines and processes for review of a clinical laboratory application.

SEC. 4. Section 2541.3 of the Business and Professions Code is amended to read:

2541.3. (a) The State Department of Public Health, the State Board of Optometry and the Division of Licensing and Division of Medical Quality of the Medical Board of California shall prepare and adopt quality standards and adopt regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. In promulgating these rules and regulations, the department and the boards shall adopt the current standards of the American National Standards Institute regarding ophthalmic materials. Nothing in this section shall prohibit the department and the boards from jointly adopting subsequent standards that are equivalent or more stringent than the current standards of the American National Standards Institute regarding ophthalmic materials.

(b) No individual or group that deals with prescription ophthalmic devices, including, but not limited to, distributors, dispensers, manufacturers, laboratories, optometrists, or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device that does not meet the minimum

standards set by the State Department of Public Health, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California.

(c) Any violation of the regulations adopted by the State Department of Public Health, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California pursuant to this section shall be a misdemeanor.

(d) Any optometrist, ophthalmologist, or dispensing optician who violates the regulations adopted by the State Department of Public Health, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California pursuant to this section shall be subject to disciplinary action by his or her licensing board.

(e) The State Board of Optometry or the Division of Licensing and Division of Medical Quality of the Medical Board of California may send any prescription ophthalmic device to the State Department of Public Health for testing as to whether or not the device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct the testing in its own facilities or may contract with any other facility to conduct the testing.

SEC. 5. Section 2541.6 of the Business and Professions Code is amended to read:

2541.6. No prescription ophthalmic device that does not meet the standards adopted by the State Department of Public Health, the State Board of Optometry, or the Division of Licensing and Division of Medical Quality of the Medical Board of California under Section 2541.3 shall be purchased with state funds.

SEC. 6. Section 49452.8 of the Education Code is amended to read:

49452.8. (a) A pupil, while enrolled in kindergarten in a public school, or while enrolled in first grade in a public school if the pupil was not previously enrolled in kindergarten in a public school, shall, no later than May 31 of the school year, present proof of having received an oral health assessment by a licensed dentist, or other licensed or registered dental health professional operating within his or her scope of practice, that was performed no earlier than 12 months prior to the date of the initial enrollment of the pupil.

(b) The parent or legal guardian of a pupil may be excused from complying with subdivision (a) by indicating on the form described in subdivision (d) that the oral health assessment could not be completed because of one or more of the reasons provided in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (d).

(c) A public school shall notify the parent or legal guardian of a pupil described in subdivision (a) concerning the assessment requirement. The notification shall, at a minimum, consist of a letter that includes all of the following:

- (1) An explanation of the administrative requirements of this section.
- (2) Information on the importance of primary teeth.

(3) Information on the importance of oral health to overall health and to learning.

(4) A toll-free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.

(5) Contact information for county public health departments.

(6) A statement of privacy applicable under state and federal laws and regulations.

(d) In order to ensure uniform data collection, the department, in consultation with interested persons, shall develop and make available on the Internet Web site of the department, a standardized notification form as specified in subdivision (c) that shall be used by each school district. The standardized form shall include all of the following:

(1) A section that can be used by the licensed dentist or other licensed or registered dental health professional performing the assessment to record information that is consistent with the information collected on the oral health assessment form developed by the Association of State and Territorial Dental Directors.

(2) A section in which the parent or legal guardian of a pupil can indicate the reason why an assessment could not be completed by marking the box next to the appropriate reason. The reasons for not completing an assessment shall include all of the following:

(A) Completion of an assessment poses an undue financial burden on the parent or legal guardian.

(B) Lack of access by the parent or legal guardian to a licensed dentist or other licensed or registered dental health professional.

(C) The parent or legal guardian does not consent to an assessment.

(e) Upon receiving completed assessments, all school districts shall, by December 31 of each year, submit a report to the county office of education of the county in which the school district is located. The report shall include all of the following:

(1) The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subdivision (a).

(2) The total number of pupils described in paragraph (1) who present proof of an assessment.

(3) The total number of pupils described in paragraph (1) who could not complete an assessment due to financial burden.

(4) The total number of pupils described in paragraph (1) who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional.

(5) The total number of pupils described in paragraph (1) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment.

(6) The total number of pupils described in paragraph (1) who are assessed and found to have untreated decay.

(7) The total number of pupils described in paragraph (1) who did not return either the assessment form or the waiver request to the school.

(f) Each county office of education shall maintain the data described in subdivision (e) in a manner that allows the county office to release it upon request.

(g) This section does not prohibit any of the following:

(1) County offices of education from sharing aggregate data collected pursuant to this section with other governmental agencies, philanthropic organizations, or other nonprofit organizations for the purpose of data analysis.

(2) Use of assessment data that is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) for purposes of conducting research and analysis on the oral health status of public school pupils in California.

(h) This section does not preclude a school district or county office of education from developing a schoolsite-based oral health assessment program to meet the requirements of this section.

(i) The Office of Oral Health of the Chronic Disease Control Branch of the State Department of Public Health shall conduct an evaluation of the requirements imposed by this section and prepare and submit a report to the Legislature by January 1, 2010, that discusses any improvements in the oral health of children resulting from the imposition of those requirements. The Office of Oral Health may receive private funds and contract with the University of California to fulfill the duties described in this subdivision.

SEC. 7. Section 51796 of the Education Code is amended to read:

51796. (a) The Instructional School Gardens Program is hereby established for the promotion, creation, and support of instructional school gardens through the allocation of grants, and through technical assistance provided, to school districts, charter schools, or county offices of education. The program shall be administered by the State Department of Education.

(b) The Superintendent shall convene an interagency working group on instructional school gardens that shall include, but not be limited to, representatives of the State Department of Education, the Department of Food and Agriculture, the State Department of Public Health, and the California Integrated Waste Management Board. The working group shall advise the Superintendent on all of the following:

(1) Effective and efficient means of encouraging school districts, charter schools, and county offices of education to develop and maintain a quality instructional school garden program.

(2) The availability of state and nonstate resources and technical assistance to help school districts, charter schools, and county offices of education in establishing and maintaining instructional school gardens.

(3) Public and private partnerships available to assist school districts, charter schools, and county offices of education in using instructional school gardens to complement the academic program of participating schools.

(c) The Superintendent may establish an advisory group involving other agencies and groups with expertise in instructional school gardens, including,

but not limited to, the California Environmental Education Interagency Network. The purpose of the advisory group is to support program efforts through technical assistance, resources, in-kind support, site visits, and other related efforts.

(d) (1) The Superintendent shall use existing resources to comply with subdivisions (b) and (c).

(2) The Department of Food and Agriculture, the State Department of Public Health, and the California Integrated Waste Management Board shall use existing resources to comply with subdivision (b).

SEC. 8. Section 298.5 of the Family Code is amended to read:

298.5. (a) Two persons desiring to become domestic partners may complete and file a Declaration of Domestic Partnership with the Secretary of State.

(b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those partnerships, and shall return a copy of the registered form and a Certificate of Registered Domestic Partnership, and except for those opposite sex domestic partners who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297, a copy of the brochure that is made available to county clerks and the Secretary of State by the State Department of Public Health pursuant to Section 358 and distributed to individuals receiving a confidential marriage license pursuant to Section 503, to the domestic partners at the mailing address provided by the domestic partners.

(c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership or enter a civil marriage with someone other than their registered domestic partner unless the most recent domestic partnership has been terminated or a final judgment of dissolution or nullity of the most recent domestic partnership has been entered. This prohibition does not apply if the previous domestic partnership ended because one of the partners died.

(d) When funding allows, the Secretary of State shall print and make available upon request, pursuant to Section 358, a lesbian, gay, bisexual, and transgender specific domestic abuse brochure developed by the State Department of Public Health and made available to the Secretary of State to domestic partners who qualify pursuant to Section 297.

SEC. 9. Section 307 of the Family Code, as amended by Section 5 of Chapter 816 of the Statutes of 2006, is amended to read:

307. This division, so far as it relates to the solemnizing of marriage, is not applicable to members of a particular religious society or denomination not having clergy for the purpose of solemnizing marriage or entering the marriage relation, if all of the following requirements are met:

(a) The parties to the marriage sign and endorse on the form prescribed by the State Department of Public Health, showing all of the following:

(1) The fact, time, and place of entering into the marriage.

(2) The printed names, signatures, and mailing addresses of two witnesses to the ceremony.

(3) The religious society or denomination of the parties to the marriage, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination. The statement of the parties to the marriage that the marriage was entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be true.

(b) The License and Certificate of Non-Clergy Marriage, endorsed pursuant to subdivision (a), is returned to the county recorder of the county in which the license was issued within 10 days after the ceremony.

SEC. 10. Section 355 of the Family Code, as amended by Section 11 of Chapter 816 of the Statutes of 2006, is amended to read:

355. (a) The forms for the marriage license shall be prescribed by the State Department of Public Health, and shall be adapted to set forth the facts required in this part.

(b) The marriage license shall include an affidavit, which the applicants shall sign, affirming that they have received the brochure provided for in Section 358. If the marriage is to be entered into pursuant to subdivision (b) of Section 420, the attorney in fact shall sign the affidavit on behalf of the applicant who is overseas.

SEC. 11. Section 358 of the Family Code is amended to read:

358. (a) The State Department of Public Health shall prepare and publish a brochure that shall contain the following:

(1) Information concerning the possibilities of genetic defects and diseases and a listing of centers available for the testing and treatment of genetic defects and diseases.

(2) Information concerning acquired immunodeficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(3) Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.

(b) The State Department of Public Health shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notaries public receiving a confidential marriage license pursuant to Section 503. The department shall also make the brochure available to the Secretary of State who shall distribute a copy of the brochure to persons who qualify as domestic partners pursuant to Section 297.

(c) The department shall prepare a lesbian, gay, bisexual, and transgender specific domestic abuse brochure and make the brochure available to the Secretary of State who shall print and make available the brochure, as funding allows, pursuant to Section 298.5.

(d) Each notary public issuing a confidential marriage license under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.

(e) To the extent possible, the State Department of Public Health shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 12. Section 422 of the Family Code, as amended by Section 18 of Chapter 816 of the Statutes of 2006, is amended to read:

422. The person solemnizing a marriage shall, sign and print or type upon the marriage license a statement, in the form prescribed by the State Department of Public Health, showing all of the following:

(a) The fact, date (month, day, year), and place (city and county) of solemnization.

(b) The printed names, signatures, and mailing addresses of at least one, and no more than two, witnesses to the ceremony.

(c) The official position of the person solemnizing the marriage, or of the denomination of which that person is a priest, minister, rabbi, or other authorized person of any religious denomination.

(d) The person solemnizing the marriage shall also type or print his or her name and mailing address.

SEC. 12.5. Section 1322 of the Government Code is amended to read:

1322. In addition to any other statutory provisions requiring confirmation by the Senate of officers appointed by the Governor, the appointments by the Governor of the following officers and the appointments by him or her to the listed boards and commissions are subject to confirmation by the Senate:

- (1) California Horse Racing Board.
- (2) Court Reporters Board of California.
- (3) Chief, Division of Occupational Safety and Health.
- (4) Chief, Division of Labor Standards Enforcement.
- (5) Commissioner of Corporations.
- (6) Contractors State License Board.
- (7) Director of Fish and Game.
- (8) State Director of Health Care Services.
- (9) Chief Deputy, State Department of Health Care Services.
- (10) Real Estate Commissioner.
- (11) State Athletic Commissioner.
- (12) State Board of Barbering and Cosmetology Examiners.
- (13) State Librarian.
- (14) Director of Social Services.
- (15) Chief Deputy, State Department of Social Services.
- (16) Director of Mental Health.
- (17) Chief Deputy, State Department of Mental Health.
- (18) Director of Developmental Services.
- (19) Chief Deputy, State Department of Developmental Services.
- (20) Director of Alcohol and Drug Abuse.
- (21) Director of Rehabilitation.
- (22) Chief Deputy, Department of Rehabilitation.
- (23) Director of the Office of Statewide Health Planning and Development.

- (24) Deputy, Health and Welfare Agency.
- (25) Director, Department of Managed Health Care.
- (26) Patient Advocate, Department of Managed Health Care.
- (27) State Public Health Officer, State Department of Public Health.
- (28) Chief Deputy, State Department of Public Health.

SEC. 13. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) “Backward compatibility” means that the equipment is able to function with older, existing equipment.

(b) “Committee” means the Public Safety Radio Strategic Planning Committee, which was established in December 1994 in recognition of the need to improve existing public radio systems and to develop interoperability among public safety departments, and between state public safety departments and local or federal entities and which consists of representatives of the following state entities:

- (1) The Office of Emergency Services, who shall serve as chairperson.
- (2) The California Highway Patrol.
- (3) The Department of Transportation.
- (4) The Department of Corrections and Rehabilitation.
- (5) The Department of Parks and Recreation.
- (6) The Department of Fish and Game.
- (7) The Department of Forestry and Fire Protection.
- (8) The Department of Justice.
- (9) The Department of Water Resources.
- (10) The State Department of Public Health.
- (11) The Emergency Medical Services Authority.
- (12) The Department of General Services.
- (13) The Office of Homeland Security.
- (14) The Military Department.
- (15) Department of Finance.

(c) “First response agencies” means public agencies that, in the early states of an incident, are responsible for, among other things, the protection and preservation of life, property, evidence, and the environment, including, but not limited to, state fire agencies, state and local emergency medical services agencies, local sheriffs’ departments, municipal police departments, county and city fire departments, and police and fire protection districts.

(d) “Nonproprietary equipment or systems” means equipment or systems that are able to function with another manufacturer’s equipment or system regardless of type or design.

(e) “Open architecture” means a system that can accommodate equipment from various vendors because it is not a proprietary system.

(f) “Public safety radio subscriber” means the ultimate end user. Subscribers include individuals or organizations, including, for example, local police departments, fire departments, and other operators of a public safety radio system. Typical subscriber equipment includes end instruments, including mobile radios, hand-held radios, mobile repeaters, fixed repeaters,

transmitters, or receivers that are interconnected to utilize assigned public safety communications frequencies.

(g) “Public safety spectrum” means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

SEC. 14. Section 8593.6 of the Government Code is amended to read:

8593.6. (a) No later than six months after securing funding for the purposes of this section, the Director of the Office of Emergency Services shall convene a working group for the purpose of assessing existing and future technologies available in the public and private sectors for the expansion of transmission of emergency alerts to the public through a public-private partnership. The working group shall advise the director and assist in the development of policies, procedures, and protocols that will lay the framework for an improved warning system for the public.

(b) (1) The working group shall consist of the following membership, to be appointed by the director:

(A) A representative of the Office of Homeland Security.

(B) A representative of the Attorney General’s office.

(C) A representative of the State Department of Public Health.

(D) A representative of the State Emergency Communications Committee.

(E) A representative of the Los Angeles County Office of Emergency Management, at the option of that agency.

(F) A representative or representatives of local government, at the option of the local government or governments.

(G) Representatives of the private sector who possess technology, experience, or insight that will aid in the development of a public-private partnership to expand an alert system to the public, including, but not limited to, representatives of providers of mass communication systems, first responders, and broadcasters.

(H) Additional representatives of any public or private entity as deemed appropriate by the Director of the Office of Emergency Services.

(2) In performing its duties, the working group shall consult with the Federal Communications Commission, and with respect to grants and fiscal matters, the Office of Homeland Security.

(c) The working group shall consider and make recommendations with respect to all of the following:

(1) Private and public programs, including pilot projects that attempt to integrate a public-private partnership to expand an alert system.

(2) Protocols, including formats, source or originator identification, threat severity, hazard description, and response requirements or recommendations, for alerts to be transmitted via an alert system that ensures that alerts are capable of being utilized across the broadest variety of communication technologies, at state and local levels.

(3) Protocols and guidelines to prioritize assurance of the greatest level of interoperability for first responders and families of first responders.

(4) Procedures for verifying, initiating, modifying, and canceling alerts transmitted via an alert system.

- (5) Guidelines for the technical capabilities of an alert system.
- (6) Guidelines for technical capability that provides for the priority transmission of alerts.
- (7) Guidelines for other capabilities of an alert system.
- (8) Standards for equipment and technologies used by an alert system.
- (9) Cost estimates.
- (10) Standards and protocols in accordance with, or in anticipation of, Federal Communications Commission requirements and federal statutes or regulations.
- (11) Liability issues.

(d) The director shall report the findings and recommendations of the working group to the Legislature no later than one year from the date the working group is convened.

(e) The director may accept private monetary or in-kind donations for the purposes of this section.

SEC. 15. Section 1266.9 of the Health and Safety Code is amended to read:

1266.9. There is hereby created in the State Treasury the State Department of Public Health Licensing and Certification Program Fund. The revenue collected in accordance with Section 1266 shall be deposited in the State Department of Public Health Licensing and Certification Program Fund and shall be available for expenditure, upon appropriation by the Legislature, to support the department's Licensing and Certification Program's operation. Interest earned on the moneys in the fund shall be deposited as revenue into the fund to support the department's Licensing and Certification Program's operation.

SEC. 16. Section 1522.08 of the Health and Safety Code, as added by Section 6 of Chapter 902 of the Statutes of 2006, is amended to read:

1522.08. (a) In order to protect the health and safety of persons receiving care or services from individuals or facilities licensed or certified by the state, the California Department of Aging, State Department of Public Health, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority may share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of any person from a facility who is subject to a background check, as otherwise provided by law.

(b) The State Department of Social Services shall maintain a centralized system for the monitoring and tracking of final administrative actions, to be used by the California Department of Aging, State Department of Public Health, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority as a part of the background check process. The State Department of Social Services may charge a fee to departments under the jurisdiction of the California Health and Human Services Agency

sufficient to cover the cost of providing those departments with the final administrative action specified in subdivision (a). To the extent that additional funds are needed for this purpose, implementation of this subdivision shall be contingent upon a specific appropriation provided for this purpose in the annual Budget Act.

(c) The State Department of Social Services, in consultation with the other departments under the jurisdiction of the California Health and Human Services Agency, may adopt regulations to implement this section.

(d) For the purposes of this section and Section 1499, “administrative action” means any proceeding initiated by the California Department of Aging, State Department of Public Health, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority to determine the rights and duties of an applicant, licensee, or other individual or entity over which the department has jurisdiction. “Administrative action” may include, but is not limited to, action involving the denial of an application for, or the suspension or revocation of, any license, special permit, administrator certificate, criminal record clearance, or exemption.

SEC. 17. Section 1575.7 of the Health and Safety Code is amended to read:

1575.7. (a) (1) The State Department of Public Health, prior to issuing a new license, shall obtain a criminal record clearance for the administrator, program director, and fiscal officer of the proposed adult day health care center. The department shall obtain the criminal record clearances each time these positions are to be filled. When the conditions set forth in paragraph (3) of subdivision (a) of Section 1265.5, subparagraph (A) of paragraph (1) of subdivision (a) of Section 1338.5, and paragraph (1) of subdivision (a) of Section 1736.6 are met, the licensing and certification program shall issue an All Facilities Letter (AFL) informing facility licensees. After the AFL is issued, facilities shall not allow newly hired administrators, program directors, and fiscal officers to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person’s criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(2) The criminal record clearance shall require the administrator, program director, and fiscal officer to submit electronic fingerprint images to the Department of Justice.

(3) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide

information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(b) A past conviction of any crime, especially any crime involving misuse of funds or involving physical abuse shall, in the discretion of the department, be grounds for denial of the license, and shall be grounds to prohibit the person from providing services in an adult day health care center.

(c) Suspension of the applicant from the Medi-Cal program or prior violations of statutory provisions or regulations relating to licensure of a health facility, community care facility, or clinic shall also be grounds for a denial of licensure, where determined by the state department to indicate a substantial probability that the applicant will not comply with this chapter and regulations adopted hereunder.

(d) No applicant which is licensed as a health facility, community care facility, or clinic may be issued a license for an adult day health care center while there exists a subsisting, uncorrected violation of the statutes or regulations relating to such licensure.

(e) The department shall develop procedures to ensure that any licensee, direct care staff, or certificate holder for whom a criminal record has been obtained pursuant to this section or Section 1265.5 or 1736 shall not be required to obtain multiple criminal record clearances.

(f) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 18. Section 1728.1 of the Health and Safety Code is amended to read:

1728.1. (a) To qualify for a home health agency license, the following requirements shall be met:

(1) Every applicant shall satisfy the following conditions:

(A) Be of good moral character. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, all principal managing members thereof, and the person in charge of the agency

for which application for license is made, shall satisfy this requirement. If the applicant is a political subdivision of the state or other governmental agency, the person in charge of the agency for which application for license is made, shall satisfy this requirement.

(B) Possess and demonstrate the ability to comply with this chapter and the rules and regulations adopted under this chapter by the state department.

(C) File his or her application pursuant to and in full compliance with this chapter.

(2) (A) The following persons shall submit to the State Department of Public Health an application and shall submit electronic fingerprint images to the Department of Justice for the furnishing of the person's criminal record to the state department, at the person's expense as provided in subdivision (b), for the purpose of a criminal record review:

(i) The owner or owners of a private agency if the owners are individuals.

(ii) If the owner of a private agency is a corporation, partnership, or association, any person having a 10 percent or greater interest in that corporation, partnership, or association.

(iii) The administrator of a home health agency.

(B) When the conditions set forth in paragraph (3) of subdivision (a) of Section 1265.5, subparagraph (A) of paragraph (1) of subdivision (a) of Section 1338.5, and paragraph (1) of subdivision (a) of Section 1736.6 are met, the licensing and certification program shall issue an All Facilities Letter (AFL) informing facility licensees. After the AFL is issued, facilities must not allow newly hired administrators, program directors, and fiscal officers to have direct contact with clients or residents of the facility prior to completion of the criminal record clearance. A criminal record clearance shall be complete when the department has obtained the person's criminal offender record information search response from the Department of Justice and has determined that the person is not disqualified from engaging in the activity for which clearance is required.

(b) The persons specified in paragraph (2) of subdivision (a) shall be responsible for any costs associated with transmitting the electronic fingerprint images. The fee to cover the processing costs of the Department of Justice, not including the costs associated with capturing or transmitting the fingerprint images and related information, shall not exceed thirty-two dollars (\$32) per submission.

(c) If the criminal record review conducted pursuant to paragraph (2) of subdivision (a) discloses a conviction for a felony or any crime that evidences an unfitness to provide home health services, the application for a license shall be denied or the person shall be prohibited from providing service in the home health agency applying for a license. This subdivision shall not apply to deny a license or prohibit the provision of service if the person presents evidence satisfactory to the state department that the person has been rehabilitated and presently is of such good character as to justify the issuance of the license or the provision of service in the home health agency.

(d) An applicant and any other person specified in this section, as part of the background clearance process, shall provide information as to whether

or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

SEC. 19. Section 1797.153 of the Health and Safety Code is amended to read:

1797.153. (a) In each operational area the county health officer and the local EMS agency administrator may act jointly as the medical health operational area coordinator (MHOAC). If the county health officer and the local EMS agency administrator are unable to fulfill the duties of the MHOAC they may jointly appoint another individual to fulfill these responsibilities. If an operational area has a MHOAC, the MHOAC in cooperation with the county office of emergency services, local public health department, the local office of environmental health, the local department of mental health, the local EMS agency, the local fire department, the regional disaster and medical health coordinator (RDMHC), and the regional office of the Office of Emergency Services (OES), shall be responsible for ensuring the development of a medical and health disaster plan for the operational area. The medical and disaster plans shall follow the Standard Emergency Management System and National Incident Management System. The MHOAC shall recommend to the operational area coordinator of the Office of Emergency Services a medical and health disaster plan for the provision of medical and health mutual aid within the operational area.

(b) For purposes of this section, “operational area” has the same meaning as that term is defined in subdivision (b) of Section 8559 of the Government Code.

(c) The medical and health disaster plan shall include preparedness, response, recovery, and mitigation functions consistent with the State Emergency Plan, as established under Sections 8559 and 8560 of the Government Code, and, at a minimum, the medical and health disaster plan, policy, and procedures shall include all of the following:

- (1) Assessment of immediate medical needs.
- (2) Coordination of disaster medical and health resources.
- (3) Coordination of patient distribution and medical evaluations.
- (4) Coordination with inpatient and emergency care providers.
- (5) Coordination of out-of-hospital medical care providers.

(6) Coordination and integration with fire agencies personnel, resources, and emergency fire prehospital medical services.

(7) Coordination of providers of nonfire based prehospital emergency medical services.

(8) Coordination of the establishment of temporary field treatment sites.

(9) Health surveillance and epidemiological analyses of community health status.

(10) Assurance of food safety.

(11) Management of exposure to hazardous agents.

(12) Provision or coordination of mental health services.

(13) Provision of medical and health public information protective action recommendations.

(14) Provision or coordination of vector control services.

(15) Assurance of drinking water safety.

(16) Assurance of the safe management of liquid, solid, and hazardous wastes.

(17) Investigation and control of communicable disease.

(d) In the event of a local, state, or federal declaration of emergency, the MHOAC shall assist the OES operational area coordinator in the coordination of medical and health disaster resources within the operational area, and be the point of contact in that operational area, for coordination with the RDMHC, the OES, the regional office of the OES, the State Department of Public Health, and the authority.

(e) Nothing in this section shall be construed to revoke or alter the current authority for disaster management provided under either of the following:

(1) The State Emergency Plan established pursuant to Section 8560 of the Government Code.

(2) The California standardized emergency management system established pursuant to Section 8607 of the Government Code.

SEC. 19.5. Section 100105 of the Health and Safety Code is amended to read:

100105. (a) The department is under the control of an executive officer known as the Director of Health Care Services, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor.

(b) The director shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Upon recommendation of the director, the Governor may appoint not to exceed two chief deputies of the department, subject to confirmation by the Senate, who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

SEC. 20. Section 100922 of the Health and Safety Code is amended to read:

100922. (a) Notwithstanding any other provision of law, a freestanding cardiac catheterization laboratory that as of December 31, 1993, was in active status in the Health Care Pilot Project established pursuant to former

Part 1.85 (commencing with Section 444) of Division 1, and that meets the requirements specified in this section, may be licensed by the State Department of Public Health as a freestanding cardiac catheterization laboratory. The license shall be subject to suspension or revocation, or both, in accordance with Article 5 (commencing with Section 1240) of Chapter 1 of Division 2. An application for licensure or annual renewal shall be accompanied by a Licensing and Certification Program fee set in accordance with Section 1266.

(b) A laboratory granted a license pursuant to this section shall be subject to the department's regulations that govern cardiac catheterization laboratories operating in hospitals without facilities for cardiac surgery, any similar regulations that may be developed by the department specifically to govern freestanding cardiac catheterization laboratories, and to the following regulations: subdivisions (a) and (d) of Section 70129 of; paragraphs (1), (2), (3), and (4) of subdivision (a) of, and subdivision (i) of Section 70433 of; paragraphs (1), (3), (4), and (5) of subdivision (a) of Section 70435 of; subparagraphs (A), (B), and (D) of paragraph (1) of, and paragraphs (5) and (7) of, subdivision (b) of Section 70437 of; subdivision (a) of Section 70439 of; Sections 70841, 75021, and 75022 of; subdivision (a) of Section 75023 of; Sections 75024, 75025, and 75026 of; subdivisions (a), (b), and (c) of Section 75027 of; subdivision (b) of Section 75029 of; Section 75030 of; subdivision (b) of Section 75031 of; Sections 75034, 75035, 75037, 75039, 75045, and 75046 of; subdivision (a) of Section 75047 of; and Sections 75050, 75051, 75052, 75053, 75054, 75055, 75057, 75059, 75060, 75061, 75062, 75063, 75064, 75065, 75066, 75071, and 75072 of; Title 22 of the California Code of Regulations.

(c) A laboratory granted a license pursuant to this section shall have a system for the ongoing evaluation of its operations and the services it provides. This system shall include a written plan for evaluating the efficiency and effectiveness of the health care services provided that describes the following:

- (1) The scope of the services provided.
- (2) Measurement indicators regarding the processes and outcomes of the services provided.
- (3) The assignment of responsibility when the data from the measurement indicators demonstrates the need for action.
- (4) A mechanism to ensure followup evaluation of the effectiveness of the actions taken.
- (5) An annual evaluation of the plan.

(d) A laboratory granted a license pursuant to this section is authorized to perform only the following diagnostic procedures:

- (1) Right heart catheterization or angiography, or both.
- (2) Left heart catheterization or angiography, or both.
- (3) Coronary catheterization and angiography.
- (4) Electrophysiology studies.

(e) A laboratory granted a license pursuant to this section shall only perform its procedures on adults, on an outpatient basis. Each laboratory

shall define patient characteristics that are appropriate for safe performance of procedures in the laboratory, and include evaluation of these criteria in its quality assurance process.

(f) Notwithstanding the requirements already set forth in this chapter, freestanding cardiac catheterization laboratories shall comply with all other applicable federal, state, and local laws.

(g) This section shall become operative on January 1, 1995, and does not require the department to adopt regulations.

SEC. 20.4. Section 101040 of the Health and Safety Code is amended to read:

101040. (a) The local health officer may take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any “state of war emergency,” “state of emergency,” or “local emergency,” as defined by Section 8558 of the Government Code, within his or her jurisdiction.

(b) “Preventive measure” means abatement, correction, removal or any other protective step that may be taken against any public health hazard that is caused by a disaster and affects the public health. Funds for these measures may be allowed pursuant to Sections 29127 to 29131, inclusive, and 53021 to 53023, inclusive, of the Government Code and from any other money appropriated by a county board of supervisors or a city governing body to carry out the purposes of this section.

(c) The local health officer, upon consent of the county board of supervisors or a city governing body, may certify any public health hazard resulting from any disaster condition if certification is required for any federal or state disaster relief program.

SEC. 20.6. Section 101080 of the Health and Safety Code is amended to read:

101080. Whenever a release, spill, escape, or entry of waste occurs as described in paragraph (2) of subdivision (b) of Section 101075 and the director or the local health officer reasonably determines that the waste is a hazardous waste or medical waste, or that it may become a hazardous waste or medical waste because of a combination or reaction with other substances or materials, and the director or local health officer reasonably determines that the release or escape is an immediate threat to the public health, or whenever there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent, the director may declare a health emergency and the local health officer may declare a local health emergency in the jurisdiction or any area thereof affected by the threat to the public health. Whenever a local health emergency is declared by a local health officer pursuant to this section, the local health emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the board of supervisors, or city council, whichever is applicable to the jurisdiction. The board of supervisors, or city council, if applicable, shall review, at least every 14 days until the local health emergency is terminated, the need for continuing the local health

emergency and shall proclaim the termination of the local health emergency at the earliest possible date that conditions warrant the termination.

SEC. 21. Section 105440 of the Health and Safety Code is amended to read:

105440. (a) This chapter shall be known, and may be cited, as the California Environmental Contaminant Biomonitoring Program.

(b) For the purposes of this chapter, the following terms have the following meanings:

(1) “Agency” means the California Environmental Protection Agency.

(2) “Biomonitoring” means the process by which chemicals and their metabolites are identified and measured within different biological specimens.

(3) “Biological specimen” means a sample taken from a biophysical substance, that is reasonably available within a human body, for use as a medium to measure the presence and concentration of toxic chemicals.

(4) “Community” means geographically or nongeographically based populations that may participate in the community-based biomonitoring program. A “nongeographical community” includes, but is not limited to, populations that may share a common chemical exposure through similar occupations, populations experiencing a common health outcome that may be linked to chemical exposures, or populations that may experience similar chemical exposures because of comparable consumption, lifestyle, product use, or subpopulations that share ethnicity, age, or gender.

(5) “Department” means the State Department of Public Health.

(6) “Designated chemicals” means those chemicals that are known to, or strongly suspected of, adversely impacting human health or development, based upon scientific, peer-reviewed animal, human, or in vitro studies, and consist of only those substances including chemical families or metabolites that are included in the federal Centers for Disease Control and Prevention studies that are known collectively as the National Reports on Human Exposure to Environmental Chemicals program and any substances as specified pursuant to subdivision (c) of Section 105449.

(7) “Director” means the State Public Health Officer.

(8) “DTSC” means the Department of Toxic Substances Control within the agency.

(9) “Office” means the Office of Environmental Health Hazard Assessment within the agency.

(10) “Panel” means the Scientific Guidance Panel established pursuant to Article 2 (commencing with Section 105448).

(11) “Program” or “biomonitoring program” means the California Environmental Contaminant Biomonitoring Program, which shall be established and operated by the department, in collaboration with the agency, the office, and DTSC.

(12) “Secretary” means the Secretary of the California Environmental Protection Agency.

SEC. 22. Section 109277 of the Health and Safety Code is amended to read:

109277. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where a physician and surgeon performs breast cancer screening or biopsy as an outpatient service, or in a reasonably proximate area to where breast cancer screening or biopsy is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

“BE INFORMED”

“Upon a diagnosis of breast cancer, your physician and surgeon is required to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109275 of the California Health and Safety Code. Your physician and surgeon may choose to provide the summary prior to the performance of a screening or biopsy for breast cancer at your request or at the physician and surgeon's discretion, when appropriate.”

“The information about methods of treatment was developed by the State Department of Public Health to inform patients of the advantages, disadvantages, risks, and descriptions of procedures.”

(c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words “BE INFORMED” shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.

SEC. 23. Section 110242 of the Health and Safety Code is amended to read:

110242. (a) The California Rx Prescription Drug Web Site Program is hereby established.

(b) The State Department of Health Care Services shall administer the program. The purpose of the program shall be to provide information to California residents and health care providers about options for obtaining prescription drugs at affordable prices.

(c) The department shall establish a Web site on or before July 1, 2008, which shall, at a minimum, provide information about, and electronic links to, all of the following:

(1) Prescription drug benefits available to Medicare beneficiaries, including the Voluntary Prescription Drug Benefit Program.

(2) State programs that provide drugs at discounted prices for California residents.

(3) Pharmaceutical manufacturer patient assistance programs that provide free or low-cost prescription drugs to qualifying individuals.

(4) Other Web sites as deemed appropriate by the department that help California residents to safely obtain prescription drugs at affordable prices, including links to Web sites of health plans and health insurers regarding their prescription drug formularies.

(d) The department's Web site shall include price comparisons of at least 150 commonly prescribed prescription drugs, including typical prices charged by licensed pharmacies in the state.

(e) The department shall ensure that the Web site established pursuant to this section is coordinated with, and does not duplicate, other Web sites that provide information about prescription drug options and costs.

(f) Implementation of this section shall be contingent upon an appropriation, if the department determines that the requirements of this section cannot be implemented without additional funding, in which case the department shall request an appropriation from the Legislature for that purpose.

SEC. 24. Section 110806 of the Health and Safety Code is amended to read:

110806. (a) A meat or poultry supplier, distributor, broker, or processor that sells a meat- or poultry-related product in California that meets the criteria for a Class I or Class II recall according to the United States Department of Agriculture guidelines shall immediately notify the State Department of Public Health and shall provide the department with a list of all customers, including a firm name, address, contact person's name, telephone number, fax, and e-mail address, that have received or will receive any product subject to recall that the supplier, distributor, broker, or processor has handled or anticipates handling. The list shall include all pertinent identifying codes, including establishment numbers, package codes, product codes, pack dates, and lot numbers, if any, received or to be received, and any other relevant information. The information shall be electronically submitted to the department in a spreadsheet format specified by the department, and shall include, but not be limited to, a complete product distribution list of the recalled product, for each customer, including product ship date, amount of product shipped and amount of any product returned. The supplier, distributor, broker, or processor shall immediately notify each of its customers that received or may receive those products of the recall in a standardized format. The supplier, distributor, broker, or processor shall document this notification process, including who was notified, the date and time of the notification, and by what method they were notified. This information shall be maintained by the supplier, distributor, broker, or processor and shall be provided to the department upon request.

(b) The department may, after receiving the information required by subdivision (a), notify appropriate local health officers and environmental health directors, as soon as practicable, that a business in the local jurisdiction has handled or received, or anticipates handling or receiving, a recalled meat- or poultry-related product. The department shall, if it makes the notification authorized by this subdivision, provide appropriate local health officers and environmental health directors with each supplier's, distributor's, broker's, processor's, or retailer's name, address, contact information, affected product identifying codes, including establishment

numbers, package codes, product codes, pack dates, and lot numbers, if any, and all other supply chain information available.

(c) (1) If the department makes the notification authorized by subdivision (b), the department, local health officers, and environmental health directors may notify the public in a manner local health officers, in consultation with the department and environmental health directors, deem appropriate regarding recalled meat- and poultry-related products based on their determination that the retailer is present within the local jurisdiction and has received or made the product available to the public.

(2) If the retailer is a restaurant, and a determination has been made by a local health officer or environmental health officer that the contaminated product has not been served, sold, or otherwise offered to the public for consumption, and the contaminated product has been permanently removed from the restaurant's food supply, then the public notification shall exclude the name or any other identifying feature of the restaurant.

SEC. 25. Section 113763 of the Health and Safety Code is amended to read:

113763. "Department" means the State Department of Public Health.

SEC. 26. Section 113774 of the Health and Safety Code is amended to read:

113774. "Enforcement officer" means the director, agents, or environmental health specialists appointed by the State Public Health Officer, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees.

SEC. 27. Section 115730 of the Health and Safety Code, as added by Section 2 of Chapter 470 of the Statutes of 2006, is amended to read:

115730. (a) The State Department of Social Services shall convene a working group to develop recommendations for minimum safety requirements for playgrounds at child care centers.

(b) The working group shall include, but not be limited to, child care center operators, including representatives of the Professional Association for Childhood Education, the California Child Care Health Program, the Children's Advocacy Institute, the State Department of Public Health, and certified playground inspectors.

(c) The working group shall use the national guidelines published by the United States Consumer Product Safety Commission and those regulations adopted pursuant to this article as a reference in developing its recommendations. However, the State Department of Social Services shall determine minimum safety requirements that are protective of child health on playgrounds at child care centers.

(d) The working group shall submit its playground safety recommendations to the State Department of Social Services by September 1, 2001.

(e) The working group shall submit its recommendations to the Legislature by November 1, 2001.

(f) This section shall be construed as a continuation of former Section 115736.

SEC. 28. Section 123371 of the Health and Safety Code is amended to read:

123371. (a) The State Department of Public Health shall develop standardized, objective information about umbilical cord blood donation that is sufficient to allow a pregnant woman to make an informed decision on whether to participate in a private or public umbilical cord blood banking program. This information shall include, but not be limited to, all of the following:

(1) The current and potential future medical uses of stored umbilical cord blood.

(2) The benefits and risks involved in umbilical cord blood banking.

(3) The medical process involved in umbilical cord blood banking.

(4) Medical or family history criteria that can impact a family's consideration of umbilical cord banking.

(5) An explanation of the differences between public and private umbilical cord blood banking.

(6) The availability and costs of public or private umbilical cord blood banks.

(7) Medical or family history criteria that can impact a family's consideration of umbilical cord blood banking.

(8) An explanation that the practices and policies of blood banks may vary with respect to accreditation, cord blood processing and storage methods, costs, and donor privacy.

(b) The information provided by the department pursuant to subdivision (a) shall be made available in Cantonese, English, Spanish, and Vietnamese.

(c) The information provided by the department pursuant to subdivision (a) shall be made available on the Internet Web sites of the licensing boards that have oversight over primary prenatal care providers.

(d) (1) The primary prenatal care provider of a woman who is known to be pregnant may, during the first prenatal visit, provide her with information developed by the department regarding her options with respect to umbilical cord blood banking at the same time the provider provides information regarding the use and availability of prenatal screening for birth defects of the fetus, as required by Section 6527 of Title 17 of the California Code of Regulations.

(2) For purposes of this article, a "prenatal care provider" means a health care provider licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or pursuant to an initiative act referred to in that division, who provides prenatal medical care within his or her scope of practice.

(e) The department shall only implement this article upon a determination by the Director of Finance, that sufficient private donations have been collected and deposited into the Umbilical Cord Blood Education Account, which is hereby created in the State Treasury. The moneys in the account shall be available, upon appropriation by the Legislature, for the purposes

of this article. No public funds shall be used to implement this article. If sufficient funds are collected and deposited into the account, the Director of Finance shall file a written notice thereof with the Secretary of State.

SEC. 29. Section 123485 of the Health and Safety Code is amended to read:

123485. The following definitions shall govern the construction of this article:

(a) “Community-based comprehensive perinatal care” means a range of prenatal, delivery, postpartum, infant, and pediatric care services delivered in an urban community or neighborhood, rural area, city or county clinic, city or county health department, freestanding birth center, or other health care provider facility by health care practitioners trained in methods of preventing complications and problems during and after pregnancy, and in methods of educating pregnant women of these preventive measures, and who provide a continuous range of services. The health care practitioners shall, through a system of established linkages to other levels of care in the community, consult with, and, when appropriate, refer to, specialists.

(b) “Low income” means all persons of childbearing age eligible for Medi-Cal benefits under Chapter 7 (commencing with Section 14000) and all persons eligible for public social services for which federal reimbursement is available, including potential recipients. “Potential recipients” shall include the pregnant woman and her infant in a family where current social, economic and health conditions of the family indicate that the family would likely become a recipient of financial assistance within the next five years.

(c) “Prenatal care” means care received from conception until the completion of labor and delivery.

(d) “Perinatal care” means care received from the time of conception through the first year after birth.

(e) “Qualified organization” means any nonprofit, not-for-profit, or for-profit corporation with demonstrated expertise in implementing the Nurse-Family Partnership program or similar programs in different local settings.

(f) “Qualified trainer” means anyone who has been certified by the Nurse-Family Partnership to provide training.

(g) “Department” means the State Department of Public Health, unless otherwise designated.

SEC. 30. Section 124250 of the Health and Safety Code is amended to read:

124250. (a) The following definitions shall apply for purposes of this section:

(1) “Domestic violence” means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that woman.

(2) “Shelter-based” means an established system of services where battered women and their children may be provided safe or confidential

emergency housing on a 24-hour basis, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(3) “Emergency shelter” means a confidential or safe location that provides emergency housing on a 24-hour basis for battered women and their children.

(b) The Maternal and Child Health Branch of the State Department of Public Health shall administer a comprehensive shelter-based services grant program to battered women’s shelters pursuant to this section.

(c) The Maternal and Child Health Branch shall administer grants, awarded as the result of a request for application process, to battered women’s shelters that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, and to establish new battered women’s shelters to provide services, in any of the following four areas:

(1) Emergency shelter to women and their children escaping violent family situations.

(2) Transitional housing programs to help women and their children find housing and jobs so that they are not forced to choose between returning to a violent relationship or becoming homeless. The programs may offer up to 18 months of housing, case management, job training and placement, counseling, support groups, and classes in parenting and family budgeting.

(3) Legal and other types of advocacy and representation to help women and their children pursue the appropriate legal options.

(4) Other support services for battered women and their children.

(d) (1) The Maternal and Child Health Branch of the State Department of Public Health shall conduct a minimum of one site visit per grant term to each agency funded to provide shelter-based services to battered women and their children. The purpose of the site visit shall be a performance assessment of, and technical assistance for, each agency visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(A) Progress in meeting program goals and objectives.

(B) Agency organization and facilities.

(C) Personnel policies, files, and training.

(D) Recordkeeping, budgeting, and expenditures.

(E) Documentation, data collection, and client confidentiality.

(2) Subsequent to each site visit conducted under paragraph (1), the Maternal and Child Health Branch shall provide a written report to the agency summarizing the agency’s performance, any deficiencies noted, and any corrective action needed.

(3) If an agency receives funding from both the Maternal and Child Health Branch of the State Department of Public Health and the Domestic Violence Program in the Office of Emergency Services during any grant cycle, the Maternal and Child Health Branch and the Comprehensive Statewide Domestic Violence Program shall, to the extent feasible, coordinate agency site visits and share performance assessment data with

the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(e) In implementing the grant program pursuant to this section, the State Department of Public Health shall consult with an advisory council that shall remain in existence until January 1, 2010. The council shall be composed of not to exceed 13 voting members and two nonvoting ex officio members appointed as follows:

- (1) Seven members appointed by the Governor.
- (2) Three members appointed by the Speaker of the Assembly.
- (3) Three members appointed by the Senate Committee on Rules.
- (4) Two nonvoting ex officio members who shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with, and participate in the activities of, the council to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

The membership of the council shall consist of domestic violence advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence, and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community for purposes of domestic violence. At least one-half of the council membership shall consist of domestic violence advocates or battered women service providers from organizations such as the California Partnership to End Domestic Violence.

It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state.

(f) The department shall collaborate closely with the council in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(g) (1) The Maternal and Child Health Branch of the State Department of Public Health shall administer grants, awarded as the result of a request for application process, to agencies to conduct demonstration projects to serve battered women and their children, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2) For purposes of this subdivision, "agency" means a state agency, a local government, a community-based organization, or a nonprofit organization.

(h) It is the intent of the Legislature that services funded by this program include services for battered women in underserved communities, including the lesbian, gay, bisexual, and transgender community, and ethnic and racial communities. Therefore, the Maternal and Child Health Branch of the State Department of Public Health shall do all of the following:

- (1) Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2) Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services for battered women exist or that additional resources are necessary.

(i) The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(j) As a condition of receiving funding pursuant to this section, battered women's shelters shall do all of the following:

(1) Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

SEC. 31. Section 124900 of the Health and Safety Code is amended to read:

124900. (a) (1) The State Department of Health Care Services shall select primary care clinics that are licensed under paragraph (1) or (2) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed for delivering medical services, including preventive health care, and smoking prevention and cessation health education, to program beneficiaries.

(2) In order to be eligible to receive funds under this article a clinic shall meet all of the following conditions, at a minimum:

(A) Provide medical diagnosis and treatment.

(B) Provide medical support services of patients in all stages of illness.

(C) Provide communication of information about diagnosis, treatment, prevention, and prognosis.

(D) Provide maintenance of patients with chronic illness.

(E) Provide prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F) Meet one or both of the following conditions:

(i) Are located in an area or a facility federally designated as a health professional shortage area, medically underserved area, or medically underserved population.

(ii) Are clinics that are able to demonstrate that at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(3) Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997–98 fiscal year shall continue to be eligible to receive funds under this article.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations which have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c) Each primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventive health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d) (1) The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available. It is the intent of the Legislature that the funds allocated pursuant to this article promote stability for those clinics participating in programs under this article as part of the state's health care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(2) The formula shall be based on both of the following:

(A) A hold harmless for clinics funded in the 1997–98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B) Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, “uncompensated care” means clinic patient visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims.

(3) The department shall allocate available funds, for a three-year period, as follows:

(A) Clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that the funding award is substantiated by the clinics' reported levels of uncompensated care.

(B) The remaining funds beyond 90 percent shall be awarded to new and existing applicants based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (B) of paragraph (4). The department shall seek input from stakeholders to discuss any adjustments to award levels that the department deems reasonable, such as including base amounts for new applicant clinics.

(C) New applicants shall be awarded funds pursuant to this subdivision if they meet the minimum requirements for funding under this article based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (A) of paragraph (4). New applicants include applicants for any new site expansions by existing applicants.

(4) In assessing reported levels of uncompensated care, the department shall utilize the data available from the Office of Statewide Health Planning and Development's (OSHDP) completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data. If this data is unavailable for an existing applicant to assess reported levels of uncompensated care, the existing applicant shall receive an allocation pursuant to subparagraph (A) of paragraph (3).

(A) The department shall utilize the most recent data available from OSHDP's completed analysis of the "Annual Report of Primary Care Clinics" for the prior fiscal year, or if more recent data is available, then the most recent data.

(B) If the funds allocated to the program are less than the prior year, the department shall allocate available funds to existing program providers only.

(5) The department shall establish a base funding level, subject to available funds, of no less than thirty-five thousand dollars (\$35,000) for frontier clinics and Native American reservation-based clinics. For purposes of this article, "frontier clinics" means clinics located in a medical services study area with a population of fewer than 11 persons per square mile.

(6) The department shall develop, in consultation with clinics funded pursuant to this article, a formula for reallocation of unused funds to other participating clinics to reimburse for uncompensated care. The department shall allocate the unused funds remaining on October 30, for the prior fiscal year to other participating clinics to reimburse for uncompensated care.

(e) In applying for funds, eligible clinics shall submit a single application per clinic corporation. Applicants with multiple sites shall apply for all eligible clinics, and shall report to the department the allocation of funds among their corporate sites in the prior year. A corporation may only claim reimbursement for services provided at a program-eligible clinic site identified in the corporate entity's application for funds, and approved for funding by the department. A corporation may increase or decrease the number of its program-eligible clinic sites on an annual basis, at the time of the annual application update for the subsequent fiscal years of any multiple-year application period.

(f) Grant allocations pursuant to this article shall be based on the formula developed by the department, notwithstanding a merger of one of more licensed primary care clinics participating in the program.

(g) A clinic that is eligible for the program in every other respect, but that provides dental services only, rather than the full range of primary care medical services, shall only be eligible to receive funds under this article on an exception basis. A dental-only provider's application shall include a memorandum of understanding (MOU) with a primary care clinic funded under this article. The MOU shall include medical protocols for making referrals by the primary care clinic to the dental clinic and from the dental clinic to the primary care clinic, and ensure that case management services are provided and that the patient is being provided comprehensive primary care as defined in subdivision (a).

(h) (1) For purposes of this article, an outpatient visit shall include diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and the patient's need for appropriate health education specific to related tobacco use and exposure.

(2) "Case management" includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i) (1) Payment shall be on a per-visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents (\$71.50).

(2) In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j) Not later than June 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider's appeal rights. Each primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

SEC. 32. Section 125002 of the Health and Safety Code is amended to read:

125002. (a) In order to align closely related programs and in order to facilitate research into the causes of, and treatment for, birth defects, the Birth Defects Monitoring Program provided for pursuant to Chapter 1 (commencing with Section 103825) of Part 2 of Division 102 shall become part of the Maternal, Child, and Adolescent Health program provided for in Article 1 (commencing with Section 123225) of Chapter 1 of Part 2 of Division 106.

(b) It is the intent of the Legislature that pregnancy blood samples, taken for prenatal screening, shall be stored and used only for the following purposes:

- (1) Research to identify risk factors for children's and women's diseases.
- (2) Research to develop and evaluate screening tests.

- (3) Research to develop and evaluate prevention strategies.
- (4) Research to develop and evaluate treatments.
- (c) Before any pregnancy blood samples are released for research purposes, all of the following conditions must be met:
 - (1) Individual consent at the time the sample is drawn to allow confidential use of the sample for research purposes by the department or the department's approved researchers.
 - (2) Protocol review for scientific merit by the department or another entity authorized by the department.
 - (3) Protocol review by the State Committee for the Protection of Human Subjects.
 - (d) When pregnancy blood samples are stored, analyzed or otherwise shared for research purposes with nondepartment staff, no information may be released identifying the person from whom the samples were obtained.
 - (e) Since the pregnancy blood samples described in this section will be stored by the California Birth Defects Monitoring Program or another entity authorized by the State Department of Public Health, Section 103850, pertaining to confidentiality of information, is applicable.

SEC. 33. Section 125118 of the Health and Safety Code is amended to read:

125118. (a) The State Department of Public Health shall develop guidelines for research involving the derivation or use of human embryonic stem cells in California.

(b) In developing the guidelines specified in subdivision (a), the department may consider other applicable guidelines developed or in use in the United States and in other countries, including, but not limited to, the Guidelines for Research Using Human Pluripotent Stem Cells developed by the National Institutes of Health and published in August 2000, and corrected in November 2000, and the Guidelines for Human Embryonic Stem Cell Research issued by the National Research Council and Institute of Medicine of the National Academies in 2005.

SEC. 34. Section 125335 of the Health and Safety Code is amended to read:

125335. (a) Prior to obtaining informed consent from a subject for AOP or any alternative method of ovarian retrieval on a subject for the purpose of procuring oocytes for research or the development of medical therapies, a physician and surgeon shall provide to the subject a standardized medically accurate written summary of health and consumer issues associated with AOP and any alternative methods of oocyte retrieval. The failure to provide to a subject this standardized medically accurate written summary constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b) The summary shall include, but not be limited to, medically accurate disclosures concerning the potential risks of AOP or any alternative method of oocyte retrieval, including the risks associated with the surgical procedure and with using the drugs, medications, and hormones prescribed for ovarian

stimulation during the AOP process or any alternative method of oocyte retrieval.

(c) For purposes of subdivision (a), “written summary of health and consumer issues” means the guide published and updated by the American Society for Reproductive Medicine entitled, “Assisted Reproductive Technology: A Guide for Patients” or an alternative written medically accurate document prepared by a recognized authority on oocyte retrieval for medical research that also meets the criteria included in this section. This alternative document may be one that has been approved and recommended by the State Department of Public Health pursuant to Section 125118 and shall include all of the following:

(1) The document shall adhere to simplified reading standards, including, but not limited to, those generally accepted and required for government publications. The document shall be written in layperson’s language and shall be made available in languages spoken by subjects in the study if their proficiency is largely in a language other than English. All information in the document shall be conveyed to the subject orally in easy to understand and nontechnical terms.

(2) The document shall include additional resources for, or list additional sources of, medical information on health and safety issues surrounding oocyte retrieval.

SEC. 35. Section 125342 of the Health and Safety Code is amended to read:

125342. (a) A research program or project that involves AOP or any alternative method of oocyte retrieval shall ensure that a written record is established and maintained to include, but not be limited to, all of the following components:

(1) The demographics of subjects, including, but not limited to, their age, race, primary language, ethnicity, income bracket, education level, and the first three digits of the ZIP Code of current residence.

(2) Information regarding every oocyte that has been donated or used. This record should be sufficient to determine the provenance and disposition of those materials.

(3) A record of all adverse health outcomes, including, but not limited to, incidences and degrees of severity, resulting from the AOP or any alternative method of oocyte retrieval.

(b) (1) The information included in the written record pursuant to subdivision (a) shall not disclose personally identifiable information about subjects, and shall be confidential and is deemed protected by subject privacy provisions of law. This information shall be reported to the State Department of Public Health, which shall aggregate the data and make it publicly available, as set forth in paragraph (2), in a manner that does not reveal personally identifiable information about the subjects.

(2) The department shall provide public access to information which it is required to release pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The department shall disseminate the information to

the general public via governmental and other Web sites in a manner that is understandable to the average person. The information shall be made available to the public when the biennial review pursuant to Section 125119.5 is provided to the Legislature.

SEC. 36. Section 127446 of the Health and Safety Code is amended to read:

127446. To the extent that any requirement of Section 127400, 127401, or 127405 results in a federal determination that a hospital's established charge schedule or published rates are not the hospital's customary or prevailing charges for services, the requirement in question shall be inoperative for all general acute care hospitals, including, but not limited to, a hospital that is licensed to and operated by a county or a hospital authority established pursuant to Section 101850. The State Department of Public Health shall seek federal guidance regarding modifications to the requirement in question. All other requirements of this article shall remain in effect.

SEC. 37. Section 130501 of the Health and Safety Code is amended to read:

130501. For purposes of this division, the following definitions shall apply:

(a) "Average manufacturer's price" has the same meaning as this term is defined in Section 1927(k)(1) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(1).

(b) "Department" means the State Department of Health Care Services.

(c) "Eligible Californian" means a resident of the state who meets any one or more of the following:

(1) Has total unreimbursed medical expenses equal to at least 10 percent of his or her family's income where the family's income does not exceed the state median family income.

(2) To the extent allowed by federal law, is enrolled in the Medicare Program, but whose prescription drugs are not covered by the Medicare Program.

(3) Has a family income that does not exceed 300 percent of the federal poverty guidelines and who does not have outpatient prescription drug coverage paid for by any one of the following:

(A) In whole by the Medi-Cal program.

(B) In whole or in part by the Healthy Families Program or other programs funded by the state.

(C) In whole or in part by another third-party payer, provided that the individual has not reached the annual limit on his or her prescription drug coverage.

(4) For purposes of this subdivision, the cost of drugs provided under this division is considered an expense incurred by the family for eligibility determination purposes.

(d) "Fund" means the California Discount Prescription Drug Program Fund.

(e) “Manufacturer” means a drug manufacturer as defined in Section 4033 of the Business and Professions Code.

(f) “Manufacturer’s rebate” means the rebate for an individual drug or aggregate rebate for a group of drugs necessary to make the price for the drug ingredients equal to or less than the applicable benchmark price.

(g) “Medicaid best price” has the same meaning as this term is defined in Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(c)(1)(C).

(h) “Multiple-source drug” has the same meaning as this term is defined in Section 1927(k)(7) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(7).

(i) “National drug code” or “NDC” means the unique 10-digit, three-segment number assigned to each drug product listed under Section 510 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360). This number identifies the labeler or vendor, product, and trade package.

(j) “National sales data” means prescription data obtained from a national-level prescription tracking service.

(k) “Participating manufacturer” means a drug manufacturer that has contracted with the department to provide an individual drug or group of drugs for the program.

(l) “Participating pharmacy” means a pharmacy that has executed a pharmacy provider agreement with the department for this program.

(m) “Pharmacy contract rate” means the negotiated per prescription reimbursement rate for drugs dispensed to eligible Californians. The department shall establish a single, basic pharmacy rate, but may contract at different rates with pharmacies in order to provide access throughout the state.

(n) “Prescription drug” means any drug that bears the legend: “Caution: federal law prohibits dispensing without prescription,” “Rx only,” or words of similar import.

(o) “Private discount drug program” means a prescription drug discount card or manufacturer patient assistance program that provides discounted or free drugs to eligible individuals. For the purposes of this division, a private discount drug program is not considered insurance or a third-party payer program.

(p) “Program” means the California Discount Prescription Drug Program.

(q) “Single-source drug” has the same meaning as this term, and the term innovator multiple-source drug, are defined in Section 1927(k)(7) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(7).

(r) “Therapeutic category” means a drug or a grouping of drugs determined by the department to have similar attributes and to be alternatives for the treatment of a specific disease or condition.

(s) “Volume weighted average discount” means the aggregated average discount for the drugs of a manufacturer, weighted by each drug’s percentage of the total prescription volume of that manufacturer’s drugs. Drugs excluded from contracting by the department, pursuant to subdivision (d) of Section 130506 and in a manner consistent with subdivision (c) of Section 130506,

shall be excluded from the calculation of the volume weighted average discount. National sales data shall be used to calculate the volume weighted average discount pursuant to Section 130506. Program utilization data shall be used to calculate the volume weighted average discount pursuant to Section 130507.

SEC. 37.5. Section 131006 of the Health and Safety Code is amended to read:

131006. Upon recommendation of the director, the Governor may appoint, not to exceed, two chief deputies of the State Department of Public Health, subject to confirmation by the Senate, who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

SEC. 37.7. Section 131071 is added to the Health and Safety Code, to read:

131071. Notwithstanding any other provision of law, whenever the department is authorized or required by statute, regulation, the due process provisions of the 14th amendment to the United States Constitution, and of subdivision (a) of Section 7 of Article I of the California Constitution, or required by contract, to conduct an adjudicative hearing leading to a final decision of the director or the department, all of the following shall apply:

(a) The proceeding shall be conducted pursuant to the administrative adjudication provisions of Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as specified in this section.

(b) Notwithstanding Section 11502 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the hearing shall be conducted before an administrative law judge selected by the department and assigned to a hearing office that complies with the procedural requirements of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) (1) Notwithstanding Section 11508 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the time and place of the hearing shall be determined by the staff assigned to the hearing office hearing the matter, except as provided in paragraph (2) or unless the department by regulation specifies otherwise.

(2) Formal hearings requested by health facilities shall be held in the City of Sacramento.

(d) (1) Unless otherwise specified in this section, the following sections of the Government Code shall apply to any adjudicative hearing conducted by the department only if the department has not, by regulation, specified an alternative procedure for the particular type of hearing at issue: Section 11503 relating to accusations, Section 11504 relating to statements of issues, Section 11505 relating to the contents of the statement to respondent, Section

11506 relating to the notice of defense, Section 11507.6 relating to discovery rights and procedures, Section 11508 relating to the time and place of hearings, and Section 11516 relating to amendment of accusations.

(2) Any alternative procedure specified by the department in accordance with this subdivision shall conform to the purpose of the Government Code provision it replaces insofar as it is possible to do so consistent with the specific procedural requirements applicable to the type of hearing at issue.

(3) Any alternative procedures adopted by the department under this subdivision shall not diminish the amount of notice given of the issues to be heard by the department or deprive appellants of the right to discovery suitable to the particular proceedings. Except as specified in paragraph (2) of subdivision (c), modifications of timeframes or of the place of hearing made by regulation shall not lengthen timeframes within which the department is required to act nor require hearings to be held at a greater distance from the appellant's place of residence or business than is the case under the otherwise applicable Government Code provision.

(e) The specific timelines specified in Section 11517 of the Government Code shall not apply to any adjudicative hearing conducted by the department to the extent that the department has, by regulation, specified different timelines for the particular type of hearing at issue.

(f) In the case of any adjudicative hearing conducted by the department, "transcript," as used in subdivision (c) of Section 11517 of the Government Code, shall be deemed to include any alternative form of recordation of the oral proceedings, including, but not limited to, an audiotape.

(g) Pursuant to Section 11415.50 of the Government Code, the department may, by regulation, provide for any appropriate informal procedure to be used for an informal level of review that does not itself lead to a final decision of the department or the director. The procedures specified in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the informal level of review. Informal conferences concerning appeals by health facilities may be held in the Cities of Sacramento or Los Angeles.

(h) Notwithstanding any other provision of law, any adjudicative hearing conducted by the department that is conducted pursuant to a federal statutory or regulatory requirement that contains specific procedures may be conducted pursuant to those procedures to the extent they are inconsistent with the procedures specified in this section.

(i) Nothing in this section shall supersede express provisions of law that apply to any hearing that is not adjudicative in nature or that does not involve due process rights specific to an individual or specific individuals, as opposed to the general public or a segment of the general public.

(j) The regulations of the former State Department of Health Services pertaining to adjudicative hearings pursuant to Section 100171 shall apply to the department until the department adopts regulations superseding those regulations. The department may enter into an interagency agreement with the State Department of Health Care Services to have the hearing office of

the State Department of Health Care Services conduct adjudicative hearings on behalf of the department in accordance with this section.

SEC. 38. Section 12693.325 of the Insurance Code is amended to read:

12693.325. (a) (1) Notwithstanding any provision of this chapter, a participating health, dental, or vision plan that is licensed and in good standing as required by subdivision (b) of Section 12693.36 may provide application assistance directly to an applicant acting on behalf of an eligible person who telephones, writes, or contacts the plan in person at the plan's place of business, or at a community public awareness event that is open to all participating plans in the county, or at any other site approved by the board, and who requests application assistance.

(2) A participating health, dental, or vision plan may also provide application assistance directly to an applicant only under the following conditions:

(A) The assistance is provided upon referral from a government agency, school, or school district.

(B) The applicant has authorized the government agency, school, or school district to allow a health, dental, or vision plan to contact the applicant with additional information on enrolling in free or low-cost health care.

(C) The State Department of Health Care Services approves the applicant authorization form in consultation with the board.

(D) The plan may not actively solicit referrals and may not provide compensation for the referrals.

(E) If a family is already enrolled in a health plan, the plan that contacts the family cannot encourage the family to change health plans.

(F) The board amends its marketing guidelines to require that when a government agency, school, or school district requests assistance from a participating health, dental, or vision plan to provide application assistance, that all plans in the area shall be invited to participate.

(G) The plan abides by the board's marketing guidelines.

(b) A participating health, dental, or vision plan may provide application assistance to an applicant who is acting on behalf of an eligible or potentially eligible child in any of the following situations:

(1) The child is enrolled in a Medi-Cal managed care plan and the participating plan becomes aware that the child's eligibility status has or will change and that the child will no longer be eligible for Medi-Cal. In those instances, the plan shall inform the applicant of the differences in benefits and requirements between the Healthy Families Program and the Medi-Cal program.

(2) The child is enrolled in a Healthy Families Program managed care plan and the participating plan becomes aware that the child's eligibility status has changed or will change and that the child will no longer be eligible for the Healthy Families Program. When it appears a child may be eligible for Medi-Cal benefits, the plan shall inform the applicant of the differences in benefits and requirements between the Medi-Cal program and the Healthy Families Program.

(3) The participating plan provides employer-sponsored coverage through an employer and an employee of that employer who is the parent or legal guardian of the eligible or potentially eligible child.

(4) The child and his or her family are participating through the participating plan in COBRA continuation coverage or other group continuation coverage required by either state or federal law and the group continuation coverage will expire within 60 days, or has expired within the past 60 days.

(5) The child's family, but not the child, is participating through the participating plan in COBRA continuation coverage or other group continuation coverage required by either state or federal law, and the group continuation coverage will expire within 60 days, or has expired within the past 60 days.

(c) A participating health, dental, or vision plan employee or other representative that provides application assistance shall complete a certified application assistant training class approved by the State Department of Health Care Services in consultation with the board. The employee or other representative shall in all cases inform an applicant verbally of his or her relationship with the participating health plan. In the case of an in-person contact, the employee or other representative shall provide in writing to the applicant the nature of his or her relationship with the participating health plan and obtain written acknowledgment from the applicant that the information was provided.

(d) A participating health, dental, or vision plan that provides application assistance may not do any of the following:

(1) Directly, indirectly, or through its agents, conduct door-to-door marketing or telephone solicitation.

(2) Directly, indirectly, or through its agents, select a health plan or provider for a potential applicant. Instead, the plan shall inform a potential applicant of the choice of plans available within the applicant's county of residence and specifically name those plans and provide the most recent version of the program handbook.

(3) Directly, indirectly, or through its agents, conduct mail or in-person solicitation of applicants for enrollment, except as specified in subdivision (b), using materials approved by the board.

(e) A participating health, dental, or vision plan that provides application assistance pursuant to this section is not eligible for an application assistance fee otherwise available pursuant to Section 12693.32, and may not sponsor a person eligible for the program by paying his or her family contribution amounts or copayments, and may not offer applicants any inducements to enroll, including, but not limited to, gifts or monetary payments.

(f) A participating health, dental, or vision plan may assist applicants acting on behalf of subscribers who are enrolled with the participating plan in completing the program's annual eligibility review package in order to allow those applicants to retain health care coverage.

(g) Each participating health, dental, or vision plan shall submit to the board a plan for application assistance. All scripts and materials to be used

during application assistance sessions shall be approved by the board and the State Department of Health Care Services.

(h) Each participating health, dental, or vision plan shall provide each applicant with the toll-free telephone number for the Healthy Families Program.

(i) When deemed appropriate by the board, the board may refer a participating health, dental, or vision plan to the Department of Managed Health Care or the State Department of Health Care Services, as applicable, for the review or investigation of its application assistance practices.

(j) The board shall evaluate the impact of the changes required by this section and shall provide a biennial report to the Legislature on or before March 1 of every other year. To prepare these reports, the State Department of Health Care Services, in cooperation with the board, shall code all the application packets used by a managed care plan to record the number of applications received that originated from managed care plans. The number of applications received that originated from managed care plans shall also be reported on the board's Web site. In addition, the board shall periodically survey those families assisted by plans to determine if the plans are meeting the requirements of this section, and if families are being given ample information about the choice of health, dental, or vision plans available to them.

(k) Nothing in this section shall be seen as mitigating a participating health, dental, or vision plan's responsibility to comply with all federal and state laws, including, but not limited to, Section 1320a-7b of Title 42 of the United States Code.

SEC. 39. Section 12693.98 of the Insurance Code is amended to read:

12693.98. (a) (1) The Medi-Cal-to-Healthy Families Bridge Benefits Program is hereby established to provide any child who meets the criteria set forth in subdivision (b) with a one calendar-month period of health care benefits in order to provide the child with an opportunity to apply for the Healthy Families Program established under Chapter 16 (commencing with Section 12693).

(2) The Medi-Cal-to-Healthy Families Bridge Benefits Program shall be administered by the board and the State Department of Health Care Services.

(b) (1) Any child who meets all of the following requirements shall be eligible for one calendar month of Healthy Families benefits funded by Title XXI of the Social Security Act, known as the State Children's Health Insurance Program:

(A) He or she has been receiving, but is no longer eligible for, full-scope Medi-Cal benefits without a share of cost.

(B) He or she is eligible for full-scope Medi-Cal benefits with a share of cost.

(C) He or she is under 19 years of age at the time he or she is no longer eligible for full-scope Medi-Cal benefits without a share of cost.

(D) He or she has family income at or below 200 percent of the federal poverty level.

(E) He or she is not otherwise excluded under the definition of “targeted low-income child” under subsections (b)(1)(B)(ii), (b)(1)(C), and (b)(2) of Section 2110 of the Social Security Act (42 U.S.C. Secs. 1397jj(b)(1)(B)(ii), 1397jj(b)(1)(C), and 1397jj(b)(2)).

(2) The one calendar month of benefits under this chapter shall begin on the first day of the month following the last day of the receipt of benefits without a share of cost.

(c) The income methodology for determining a child’s family income, as required by paragraph (1) of subdivision (b) shall be the same methodology used in determining a child’s eligibility for the full scope of Medi-Cal benefits.

(d) The one calendar-month period of Healthy Families benefits provided under this chapter shall be identical to the scope of benefits that the child was receiving under the Medi-Cal program without a share of cost.

(e) The one calendar-month period of Healthy Families benefits provided under this chapter shall only be made available through a Medi-Cal provider or under a Medi-Cal managed care arrangement or contract.

(f) Except as provided in subdivision (j), nothing in this section shall be construed to provide Healthy Families benefits for more than a one calendar-month period under any circumstances, including the failure to apply for benefits under the Healthy Families Program or the failure to be made aware of the availability of the Healthy Families Program, unless the circumstances described in subdivision (b) reoccur.

(g) (1) This section shall become operative on the first day of the second month following the effective date of this section, subject to paragraph (2).

(2) Under no circumstances shall this section become operative until, and shall be implemented only to the extent that, all necessary federal approvals, including approval of any amendments to the State Child Health Plan have been sought and obtained and federal financial participation under the federal State Children’s Health Insurance Program, as set forth in Title XXI of the Social Security Act, has been approved.

(h) This section shall become inoperative if an unappealable court decision or judgment determines that any of the following apply:

(1) The provisions of this section are unconstitutional under the United States Constitution or the California Constitution.

(2) The provisions of this section do not comply with the State Children’s Health Insurance Program, as set forth in Title XXI of the Social Security Act.

(3) The provisions of this section require that the health care benefits provided pursuant to this section are required to be furnished for more than two calendar months.

(i) If the State Child Health Insurance Program waiver described in Section 12693.755 is approved, and at the time the waiver is implemented, the benefits described in this section shall also be available to persons who meet the eligibility requirements of the program and are parents of, or, as defined by the board, adults responsible for, children enrolled to receive

coverage under this part or enrolled to receive full-scope Medi-Cal services with no share of cost.

(j) The one month of benefits provided in this section shall be increased to two months commencing on implementation of the waiver referred to in Section 12693.755.

(k) This section shall cease to be implemented on the date that the Director of Health Care Services executes a declaration stating that implementation of the Healthy Families Presumptive Eligibility Program established pursuant to Section 12693.98a has commenced, and as of that date is repealed.

SEC. 40. Section 12693.98a of the Insurance Code is amended to read:

12693.98a. (a) (1) The Healthy Families Presumptive Eligibility Program is hereby established to provide any child who meets the criteria set forth in subdivision (b) with presumptive eligibility benefits until the board has determined the child's eligibility for the Healthy Families Program.

(2) The Healthy Families Presumptive Eligibility Program shall be administered by the board.

(b) (1) Any child who meets both of the following requirements shall be eligible for presumptive eligibility benefits under the Healthy Families Presumptive Eligibility Program:

(A) He or she has been receiving, but is no longer eligible for, full-scope Medi-Cal benefits without a share of cost, or he or she is eligible for full-scope Medi-Cal benefits with a share of cost.

(B) He or she otherwise appears to meet the income eligibility criteria for the Healthy Families Program.

(2) The presumptive eligibility benefits under this section shall begin on the first day of the month following the last day of the receipt of Medi-Cal benefits without a share of cost. Presumptive eligibility benefits under this section shall terminate at the end of the month in which a child's effective date in the Healthy Families Program begins or the end of the month in which the board determines that the child is not eligible for the Healthy Families Program. If the board determines that the child is eligible for the Healthy Families Program, the board shall enroll the child in the Healthy Families Program without an interruption in coverage. If the board determines that the child is ineligible for the Healthy Families Program, the board shall terminate the child's benefits under the Healthy Families Presumptive Eligibility Program.

(c) The income methodology for determining a child's family income for the purposes of the Healthy Families Presumptive Eligibility Program, as required by paragraph (1) of subdivision (b), shall be the same methodology used in determining a child's eligibility for the full scope of Medi-Cal benefits.

(d) The scope of presumptive eligibility benefits provided under the Healthy Families Presumptive Eligibility Program shall be identical to the scope of benefits that the child was receiving under the Medi-Cal program without a share of cost.

(e) The presumptive eligibility benefits provided under this section shall only be made available through a Medi-Cal provider or under a Medi-Cal managed care arrangement or contract.

(f) When an application is forwarded by the county to the Healthy Families Program, the county shall send the application to the Healthy Families Program via an electronic application format defined by the department, provided that the department has implemented the automated interfaces necessary to accomplish electronic submission of applications from the county to the Healthy Families Program without requiring duplicative data entry by the county. The transmission of the electronic application to the Healthy Families Program shall occur within the timeframes designated by the department.

(g) To the extent necessary, the department and the board may exchange a child's case file solely for the purpose of determining the child's eligibility for the Medi-Cal program or the Healthy Families Program, without requiring the family's consent, to the extent allowed by federal law. Any information, including the child's case file, shall be kept confidential by the department and the board pursuant to state and federal law, and it shall be used only for the determination or continuation of eligibility.

(h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions, without taking any further regulatory action. Thereafter, the department may adopt regulations, as necessary, to implement this section in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) This section shall be implemented when the state has sought and obtained approval of any amendments to its state plan necessary to implement the changes to this section, pursuant to this act, and has obtained funding under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) for the provision of benefits under this section. Until the changes to this section, made by this act, are implemented, the Medi-Cal to Healthy Families Bridge Program established pursuant to Section 12693.98 shall remain in effect. Notwithstanding any other provision of law, and only when all necessary federal approvals have been obtained by the state, this section shall be implemented only to the extent federal financial participation under Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.) is available to fund benefits provided under this section.

(j) Upon implementation of the Healthy Families Presumptive Eligibility Program pursuant to this section, the Director of Health Care Services shall execute a declaration, which shall be retained by the director, stating that implementation of the section has commenced.

SEC. 41. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person

or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

(a) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Medical Board of California and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(b) Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(c) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(d) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of this code.

(e) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(f) Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

(g) All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

(h) All investigators of the State Departments of Health Care Services, Public Health, Social Services, Mental Health, and Alcohol and Drug Programs, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(i) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and those investigators designated by the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

(j) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(k) Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

(l) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(m) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(n) The Chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(o) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(p) The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(q) Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be

the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

(s) Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(t) Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

(u) Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(v) The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

SEC. 42. Section 1203.097 of the Penal Code, as amended by Section 5 of Chapter 476 of the Statutes of 2006, is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) A minimum payment by the defendant of four hundred dollars (\$400) to be disbursed as specified in this paragraph. If, after a hearing in court on

the record, the court finds that the defendant does not have the ability to pay, the court may reduce or waive this fee.

Two-thirds of the moneys deposited with the county treasurer pursuant to this section shall be retained by counties and deposited in the domestic violence programs special fund created pursuant to Section 18305 of the Welfare and Institutions Code, to be expended for the purposes of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. The remainder shall be transferred, once a month, to the Controller for deposit in equal amounts in the Domestic Violence Restraining Order Reimbursement Fund and in the Domestic Violence Training and Education Fund, which are hereby created, in an amount equal to one-third of funds collected during the preceding month. In no event may the funds transferred to the Controller be less than one hundred thirty-three dollars (\$133) for each defendant. However, if the court orders the defendant to pay less than two hundred dollars (\$200) because of his or her inability to pay, the state shall receive two-thirds of the payment. Moneys deposited into these funds pursuant to this section shall be available upon appropriation by the Legislature and shall be distributed each fiscal year as follows:

(A) Funds from the Domestic Violence Restraining Order Reimbursement Fund shall be distributed to local law enforcement or other criminal justice agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 6380 of the Family Code, based on the annual notification from the Department of Justice of the number of restraining orders issued and registered in the state domestic violence restraining order registry maintained by the Department of Justice, for the development and maintenance of the domestic violence restraining order databank system.

(B) Funds from the Domestic Violence Training and Education Fund shall support a statewide training and education program to increase public awareness of domestic violence and to improve the scope and quality of services provided to the victims of domestic violence. Grants to support this program shall be awarded on a competitive basis and be administered by the State Department of Public Health, in consultation with the statewide domestic violence coalition, which is eligible to receive funding under this section.

(6) Successful completion of a batterer's program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours class time duration. The defendant shall attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program, and shall complete the program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion within 18 months.

(7) (A) (i) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon the ability to pay.

(ii) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(B) Upon request by the batterer's program, the court shall provide the defendant's arrest report, prior incidents of violence, and treatment history to the program.

(8) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community service has been satisfactorily completed. If sufficient staff and resources are available, the community service shall be performed under the jurisdiction of the local agency overseeing a community service program.

(9) If the program finds that the defendant is unsuitable, the program shall immediately contact the probation department or the court. The probation department or court shall either recalendar the case for hearing or refer the defendant to an appropriate alternative batterer's program.

(10) (A) Upon recommendation of the program, a court shall require a defendant to participate in additional sessions throughout the probationary period, unless it finds that it is not in the interests of justice to do so, states its reasons on the record, and enters them into the minutes. In deciding whether the defendant would benefit from more sessions, the court shall consider whether any of the following conditions exist:

(i) The defendant has been violence free for a minimum of six months.

(ii) The defendant has cooperated and participated in the batterer's program.

(iii) The defendant demonstrates an understanding of and practices positive conflict resolution skills.

(iv) The defendant blames, degrades, or has committed acts that dehumanize the victim or puts at risk the victim's safety, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(v) The defendant demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(vi) The defendant has made threats to harm anyone in any manner.

(vii) The defendant has complied with applicable requirements under paragraph (6) of subdivision (c) or subparagraph (C) to receive alcohol counseling, drug counseling, or both.

(viii) The defendant demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

(B) The program shall immediately report any violation of the terms of the protective order, including any new acts of violence or failure to comply with the program requirements, to the court, the prosecutor, and, if formal probation has been ordered, to the probation department. The probationer shall file proof of enrollment in a batterer's program with the court within 30 days of conviction.

(C) Concurrent with other requirements under this section, in addition to, and not in lieu of, the batterer's program, and unless prohibited by the referring court, the probation department or the court may make provisions for a defendant to use his or her resources to enroll in a chemical dependency program or to enter voluntarily a licensed chemical dependency recovery hospital or residential treatment program that has a valid license issued by the state to provide alcohol or drug services to receive program participation credit, as determined by the court. The probation department shall document evidence of this hospital or residential treatment participation in the defendant's program file.

(11) The conditions of probation may include, in lieu of a fine, but not in lieu of the fund payment required under paragraph (5), one or more of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars (\$5,000).

(B) That the defendant reimburse the victim for reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, to make payments to a battered women's shelter, or to pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. Determination of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. When the injury to a married person is caused, in whole or in part, by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, as required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse, until all separate property of the offending spouse is exhausted.

(12) If it appears to the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, is not benefiting from counseling, or has engaged in criminal conduct, upon request of the probation officer, the prosecuting attorney, or on its own motion, the court, as a priority calendar item, shall hold a hearing to determine whether further sentencing should proceed. The court may

consider factors, including, but not limited to, any violence by the defendant against the former or a new victim while on probation and noncompliance with any other specific condition of probation. If the court finds that the defendant is not performing satisfactorily in the assigned program, is not benefiting from the program, has not complied with a condition of probation, or has engaged in criminal conduct, the court shall terminate the defendant's participation in the program and shall proceed with further sentencing.

(b) If a person is granted formal probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, in addition to the terms specified in subdivision (a), all of the following shall apply:

(1) The probation department shall make an investigation and take into consideration the defendant's age, medical history, employment and service records, educational background, community and family ties, prior incidents of violence, police report, treatment history, if any, demonstrable motivation, and other mitigating factors in determining which batterer's program would be appropriate for the defendant. This information shall be provided to the batterer's program if it is requested. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendations to the court.

(2) The court shall advise the defendant that the failure to report to the probation department for the initial investigation, as directed by the court, or the failure to enroll in a specified program, as directed by the court or the probation department, shall result in possible further incarceration. The court, in the interests of justice, may relieve the defendant from the prohibition set forth in this subdivision based upon the defendant's mistake or excusable neglect. Application for this relief shall be filed within 20 court days of the missed deadline. This time limitation may not be extended. A copy of any application for relief shall be served on the office of the prosecuting attorney.

(3) After the court orders the defendant to a batterer's program, the probation department shall conduct an initial assessment of the defendant, including, but not limited to, all of the following:

- (A) Social, economic, and family background.
- (B) Education.
- (C) Vocational achievements.
- (D) Criminal history.
- (E) Medical history.
- (F) Substance abuse history.
- (G) Consultation with the probation officer.
- (H) Verbal consultation with the victim, only if the victim desires to participate.

(I) Assessment of the future probability of the defendant committing murder.

(4) The probation department shall attempt to notify the victim regarding the requirements for the defendant's participation in the batterer's program, as well as regarding available victim resources. The victim also shall be

informed that attendance in any program does not guarantee that an abuser will not be violent.

(c) The court or the probation department shall refer defendants only to batterer's programs that follow standards outlined in paragraph (1), which may include, but are not limited to, lectures, classes, group discussions, and counseling. The probation department shall design and implement an approval and renewal process for batterer's programs and shall solicit input from criminal justice agencies and domestic violence victim advocacy programs.

(1) The goal of a batterer's program under this section shall be to stop domestic violence. A batterer's program shall consist of the following components:

(A) Strategies to hold the defendant accountable for the violence in a relationship, including, but not limited to, providing the defendant with a written statement that the defendant shall be held accountable for acts or threats of domestic violence.

(B) A requirement that the defendant participate in ongoing same-gender group sessions.

(C) An initial intake that provides written definitions to the defendant of physical, emotional, sexual, economic, and verbal abuse, and the techniques for stopping these types of abuse.

(D) Procedures to inform the victim regarding the requirements for the defendant's participation in the intervention program as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(E) A requirement that the defendant attend group sessions free of chemical influence.

(F) Educational programming that examines, at a minimum, gender roles, socialization, the nature of violence, the dynamics of power and control, and the effects of abuse on children and others.

(G) A requirement that excludes any couple counseling or family counseling, or both.

(H) Procedures that give the program the right to assess whether or not the defendant would benefit from the program and to refuse to enroll the defendant if it is determined that the defendant would not benefit from the program, so long as the refusal is not because of the defendant's inability to pay. If possible, the program shall suggest an appropriate alternative program.

(I) Program staff who, to the extent possible, have specific knowledge regarding, but not limited to, spousal abuse, child abuse, sexual abuse, substance abuse, the dynamics of violence and abuse, the law, and procedures of the legal system.

(J) Program staff who are encouraged to utilize the expertise, training, and assistance of local domestic violence centers.

(K) A requirement that the defendant enter into a written agreement with the program, which shall include an outline of the contents of the program, the attendance requirements, the requirement to attend group sessions free

of chemical influence, and a statement that the defendant may be removed from the program if it is determined that the defendant is not benefiting from the program or is disruptive to the program.

(L) A requirement that the defendant sign a confidentiality statement prohibiting disclosure of any information obtained through participating in the program or during group sessions regarding other participants in the program.

(M) Program content that provides cultural and ethnic sensitivity.

(N) A requirement of a written referral from the court or probation department prior to permitting the defendant to enroll in the program. The written referral shall state the number of minimum sessions required by the court.

(O) Procedures for submitting to the probation department all of the following uniform written responses:

(i) Proof of enrollment, to be submitted to the court and the probation department and to include the fee determined to be charged to the defendant, based upon the ability to pay, for each session.

(ii) Periodic progress reports that include attendance, fee payment history, and program compliance.

(iii) Final evaluation that includes the program's evaluation of the defendant's progress, using the criteria set forth in paragraph (4) of subdivision (a) and recommendation for either successful or unsuccessful termination or continuation in the program.

(P) A sliding fee schedule based on the defendant's ability to pay. The batterer's program shall develop and utilize a sliding fee scale that recognizes both the defendant's ability to pay and the necessity of programs to meet overhead expenses. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee. Upon a hearing and a finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee. The payment of the fee shall be made a condition of probation if the court determines the defendant has the present ability to pay the fee. The fee shall be paid during the term of probation unless the program sets other conditions. The acceptance policies shall be in accordance with the scaled fee system.

(2) The court shall refer persons only to batterer's programs that have been approved by the probation department pursuant to paragraph (5). The probation department shall do both of the following:

(A) Provide for the issuance of a provisional approval, provided that the applicant is in substantial compliance with applicable laws and regulations and an urgent need for approval exists. A provisional approval shall be considered an authorization to provide services and shall not be considered a vested right.

(B) If the probation department determines that a program is not in compliance with standards set by the department, the department shall provide written notice of the noncompliant areas to the program. The program shall submit a written plan of corrections within 14 days from the

date of the written notice on noncompliance. A plan of correction shall include, but not be limited to, a description of each corrective action and timeframe for implementation. The department shall review and approve all or any part of the plan of correction and notify the program of approval or disapproval in writing. If the program fails to submit a plan of correction or fails to implement the approved plan of correction, the department shall consider whether to revoke or suspend approval and, upon revoking or suspending approval, shall have the option to cease referrals of defendants under this section.

(3) No program, regardless of its source of funding, shall be approved unless it meets all of the following standards:

(A) The establishment of guidelines and criteria for education services, including standards of services that may include lectures, classes, and group discussions.

(B) Supervision of the defendant for the purpose of evaluating the person's progress in the program.

(C) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program or for the successful completion of the program as ordered. The program shall notify the court and the probation department, in writing, within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

(D) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant's enrollment on participation by the victim.

(4) In making referrals of indigent defendants to approved batterer's programs, the probation department shall apportion these referrals evenly among the approved programs.

(5) The probation department shall have the sole authority to approve a batterer's program for probation. The program shall be required to obtain only one approval but shall renew that approval annually.

(A) The procedure for the approval of a new or existing program shall include all of the following:

(i) The completion of a written application containing necessary and pertinent information describing the applicant program.

(ii) The demonstration by the program that it possesses adequate administrative and operational capability to operate a batterer's treatment program. The program shall provide documentation to prove that the program has conducted batterer's programs for at least one year prior to application. This requirement may be waived under subparagraph (A) of paragraph (2) if there is no existing batterer's program in the city, county, or city and county.

(iii) The onsite review of the program, including monitoring of a session to determine that the program adheres to applicable statutes and regulations.

(iv) The payment of the approval fee.

(B) The probation department shall fix a fee for approval not to exceed two hundred fifty dollars (\$250) and for approval renewal not to exceed two hundred fifty dollars (\$250) every year in an amount sufficient to cover its costs in administering the approval process under this section. No fee shall be charged for the approval of local governmental entities.

(C) The probation department has the sole authority to approve the issuance, denial, suspension, or revocation of approval and to cease new enrollments or referrals to a batterer's program under this section. The probation department shall review information relative to a program's performance or failure to adhere to standards, or both. The probation department may suspend or revoke any approval issued under this subdivision or deny an application to renew an approval or to modify the terms and conditions of approval, based on grounds established by probation, including, but not limited to, either of the following:

(i) Violation of this section by any person holding approval or by a program employee in a program under this section.

(ii) Misrepresentation of any material fact in obtaining the approval.

(6) For defendants who are chronic users or serious abusers of drugs or alcohol, standard components in the program shall include concurrent counseling for substance abuse and violent behavior, and in appropriate cases, detoxification and abstinence from the abused substance.

(7) The program shall conduct an exit conference that assesses the defendant's progress during his or her participation in the batterer's program.

(d) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 43. Section 1203.097 of the Penal Code, as amended by Section 6 of Chapter 476 of the Statutes of 2006, is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) A minimum payment by the defendant of two hundred dollars (\$200) to be disbursed as specified in this paragraph. If, after a hearing in court on the record, the court finds that the defendant does not have the ability to pay, the court may reduce or waive this fee.

One-third of the moneys deposited with the county treasurer pursuant to this section shall be retained by counties and deposited in the domestic violence programs special fund created pursuant to Section 18305 of the

Welfare and Institutions Code, to be expended for the purposes of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. The remainder shall be transferred, once a month, to the Controller for deposit in equal amounts in the Domestic Violence Restraining Order Reimbursement Fund and in the Domestic Violence Training and Education Fund, which are hereby created, in an amount equal to two-thirds of funds collected during the preceding month. Moneys deposited into these funds pursuant to this section shall be available upon appropriation by the Legislature and shall be distributed each fiscal year as follows:

(A) Funds from the Domestic Violence Restraining Order Reimbursement Fund shall be distributed to local law enforcement or other criminal justice agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 6380 of the Family Code, based on the annual notification from the Department of Justice of the number of restraining orders issued and registered in the state domestic violence restraining order registry maintained by the Department of Justice, for the development and maintenance of the domestic violence restraining order databank system.

(B) Funds from the Domestic Violence Training and Education Fund shall support a statewide training and education program to increase public awareness of domestic violence and to improve the scope and quality of services provided to the victims of domestic violence. Grants to support this program shall be awarded on a competitive basis and be administered by the State Department of Public Health, in consultation with the statewide domestic violence coalition, which is eligible to receive funding under this section.

(6) Successful completion of a batterer's program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours class time duration. The defendant shall attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program, and shall complete the program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion within 18 months.

(7) (A) (i) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon the ability to pay.

(ii) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does

not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(B) Upon request by the batterer's program, the court shall provide the defendant's arrest report, prior incidents of violence, and treatment history to the program.

(8) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community service has been satisfactorily completed. If sufficient staff and resources are available, the community service shall be performed under the jurisdiction of the local agency overseeing a community service program.

(9) If the program finds that the defendant is unsuitable, the program shall immediately contact the probation department or the court. The probation department or court shall either recalendar the case for hearing or refer the defendant to an appropriate alternative batterer's program.

(10) (A) Upon recommendation of the program, a court shall require a defendant to participate in additional sessions throughout the probationary period, unless it finds that it is not in the interests of justice to do so, states its reasons on the record, and enters them into the minutes. In deciding whether the defendant would benefit from more sessions, the court shall consider whether any of the following conditions exist:

(i) The defendant has been violence free for a minimum of six months.

(ii) The defendant has cooperated and participated in the batterer's program.

(iii) The defendant demonstrates an understanding of and practices positive conflict resolution skills.

(iv) The defendant blames, degrades, or has committed acts that dehumanize the victim or puts at risk the victim's safety, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(v) The defendant demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(vi) The defendant has made threats to harm anyone in any manner.

(vii) The defendant has complied with applicable requirements under paragraph (6) of subdivision (c) or subparagraph (C) to receive alcohol counseling, drug counseling, or both.

(viii) The defendant demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

(B) The program shall immediately report any violation of the terms of the protective order, including any new acts of violence or failure to comply with the program requirements, to the court, the prosecutor, and, if formal probation has been ordered, to the probation department. The probationer shall file proof of enrollment in a batterer's program with the court within 30 days of conviction.

(C) Concurrent with other requirements under this section, in addition to, and not in lieu of, the batterer's program, and unless prohibited by the referring court, the probation department or the court may make provisions for a defendant to use his or her resources to enroll in a chemical dependency program or to enter voluntarily a licensed chemical dependency recovery hospital or residential treatment program that has a valid license issued by the state to provide alcohol or drug services to receive program participation credit, as determined by the court. The probation department shall document evidence of this hospital or residential treatment participation in the defendant's program file.

(11) The conditions of probation may include, in lieu of a fine, but not in lieu of the fund payment required under paragraph (5), one or more of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars (\$5,000).

(B) That the defendant reimburse the victim for reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, to make payments to a battered women's shelter, or to pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. Determination of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. When the injury to a married person is caused, in whole or in part, by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, as required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse, until all separate property of the offending spouse is exhausted.

(12) If it appears to the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, is not benefiting from counseling, or has engaged in criminal conduct, upon request of the probation officer, the prosecuting attorney, or on its own motion, the court, as a priority calendar item, shall hold a hearing to determine whether further sentencing should proceed. The court may consider factors, including, but not limited to, any violence by the defendant against the former or a new victim while on probation and noncompliance with any other specific condition of probation. If the court finds that the defendant is not performing satisfactorily in the assigned program, is not benefiting from the program, has not complied with a condition of probation, or has engaged in criminal conduct, the court shall terminate the defendant's participation in the program and shall proceed with further sentencing.

(b) If a person is granted formal probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, in addition to the terms specified in subdivision (a), all of the following shall apply:

(1) The probation department shall make an investigation and take into consideration the defendant's age, medical history, employment and service records, educational background, community and family ties, prior incidents of violence, police report, treatment history, if any, demonstrable motivation, and other mitigating factors in determining which batterer's program would be appropriate for the defendant. This information shall be provided to the batterer's program if it is requested. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendations to the court.

(2) The court shall advise the defendant that the failure to report to the probation department for the initial investigation, as directed by the court, or the failure to enroll in a specified program, as directed by the court or the probation department, shall result in possible further incarceration. The court, in the interests of justice, may relieve the defendant from the prohibition set forth in this subdivision based upon the defendant's mistake or excusable neglect. Application for this relief shall be filed within 20 court days of the missed deadline. This time limitation may not be extended. A copy of any application for relief shall be served on the office of the prosecuting attorney.

(3) After the court orders the defendant to a batterer's program, the probation department shall conduct an initial assessment of the defendant, including, but not limited to, all of the following:

- (A) Social, economic, and family background.
- (B) Education.
- (C) Vocational achievements.
- (D) Criminal history.
- (E) Medical history.
- (F) Substance abuse history.
- (G) Consultation with the probation officer.
- (H) Verbal consultation with the victim, only if the victim desires to participate.
- (I) Assessment of the future probability of the defendant committing murder.

(4) The probation department shall attempt to notify the victim regarding the requirements for the defendant's participation in the batterer's program, as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(c) The court or the probation department shall refer defendants only to batterer's programs that follow standards outlined in paragraph (1), which may include, but are not limited to, lectures, classes, group discussions, and counseling. The probation department shall design and implement an approval and renewal process for batterer's programs and shall solicit input

from criminal justice agencies and domestic violence victim advocacy programs.

(1) The goal of a batterer's program under this section shall be to stop domestic violence. A batterer's program shall consist of the following components:

(A) Strategies to hold the defendant accountable for the violence in a relationship, including, but not limited to, providing the defendant with a written statement that the defendant shall be held accountable for acts or threats of domestic violence.

(B) A requirement that the defendant participate in ongoing same-gender group sessions.

(C) An initial intake that provides written definitions to the defendant of physical, emotional, sexual, economic, and verbal abuse, and the techniques for stopping these types of abuse.

(D) Procedures to inform the victim regarding the requirements for the defendant's participation in the intervention program as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(E) A requirement that the defendant attend group sessions free of chemical influence.

(F) Educational programming that examines, at a minimum, gender roles, socialization, the nature of violence, the dynamics of power and control, and the effects of abuse on children and others.

(G) A requirement that excludes any couple counseling or family counseling, or both.

(H) Procedures that give the program the right to assess whether or not the defendant would benefit from the program and to refuse to enroll the defendant if it is determined that the defendant would not benefit from the program, so long as the refusal is not because of the defendant's inability to pay. If possible, the program shall suggest an appropriate alternative program.

(I) Program staff who, to the extent possible, have specific knowledge regarding, but not limited to, spousal abuse, child abuse, sexual abuse, substance abuse, the dynamics of violence and abuse, the law, and procedures of the legal system.

(J) Program staff who are encouraged to utilize the expertise, training, and assistance of local domestic violence centers.

(K) A requirement that the defendant enter into a written agreement with the program, which shall include an outline of the contents of the program, the attendance requirements, the requirement to attend group sessions free of chemical influence, and a statement that the defendant may be removed from the program if it is determined that the defendant is not benefiting from the program or is disruptive to the program.

(L) A requirement that the defendant sign a confidentiality statement prohibiting disclosure of any information obtained through participating in the program or during group sessions regarding other participants in the program.

(M) Program content that provides cultural and ethnic sensitivity.

(N) A requirement of a written referral from the court or probation department prior to permitting the defendant to enroll in the program. The written referral shall state the number of minimum sessions required by the court.

(O) Procedures for submitting to the probation department all of the following uniform written responses:

(i) Proof of enrollment, to be submitted to the court and the probation department and to include the fee determined to be charged to the defendant, based upon the ability to pay, for each session.

(ii) Periodic progress reports that include attendance, fee payment history, and program compliance.

(iii) Final evaluation that includes the program's evaluation of the defendant's progress, using the criteria set forth in paragraph (4) of subdivision (a) and recommendation for either successful or unsuccessful termination or continuation in the program.

(P) A sliding fee schedule based on the defendant's ability to pay. The batterer's program shall develop and utilize a sliding fee scale that recognizes both the defendant's ability to pay and the necessity of programs to meet overhead expenses. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee. Upon a hearing and a finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee. The payment of the fee shall be made a condition of probation if the court determines the defendant has the present ability to pay the fee. The fee shall be paid during the term of probation unless the program sets other conditions. The acceptance policies shall be in accordance with the scaled fee system.

(2) The court shall refer persons only to batterer's programs that have been approved by the probation department pursuant to paragraph (5). The probation department shall do both of the following:

(A) Provide for the issuance of a provisional approval, provided that the applicant is in substantial compliance with applicable laws and regulations and an urgent need for approval exists. A provisional approval shall be considered an authorization to provide services and shall not be considered a vested right.

(B) If the probation department determines that a program is not in compliance with standards set by the department, the department shall provide written notice of the noncompliant areas to the program. The program shall submit a written plan of corrections within 14 days from the date of the written notice on noncompliance. A plan of correction shall include, but not be limited to, a description of each corrective action and timeframe for implementation. The department shall review and approve all or any part of the plan of correction and notify the program of approval or disapproval in writing. If the program fails to submit a plan of correction or fails to implement the approved plan of correction, the department shall consider whether to revoke or suspend approval and, upon revoking or

suspending approval, shall have the option to cease referrals of defendants under this section.

(3) No program, regardless of its source of funding, shall be approved unless it meets all of the following standards:

(A) The establishment of guidelines and criteria for education services, including standards of services that may include lectures, classes, and group discussions.

(B) Supervision of the defendant for the purpose of evaluating the person's progress in the program.

(C) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program or for the successful completion of the program as ordered. The program shall notify the court and the probation department, in writing, within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

(D) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant's enrollment on participation by the victim.

(4) In making referrals of indigent defendants to approved batterer's programs, the probation department shall apportion these referrals evenly among the approved programs.

(5) The probation department shall have the sole authority to approve a batterer's program for probation. The program shall be required to obtain only one approval but shall renew that approval annually.

(A) The procedure for the approval of a new or existing program shall include all of the following:

(i) The completion of a written application containing necessary and pertinent information describing the applicant program.

(ii) The demonstration by the program that it possesses adequate administrative and operational capability to operate a batterer's treatment program. The program shall provide documentation to prove that the program has conducted batterer's programs for at least one year prior to application. This requirement may be waived under subparagraph (A) of paragraph (2) if there is no existing batterer's program in the city, county, or city and county.

(iii) The onsite review of the program, including monitoring of a session to determine that the program adheres to applicable statutes and regulations.

(iv) The payment of the approval fee.

(B) The probation department shall fix a fee for approval not to exceed two hundred fifty dollars (\$250) and for approval renewal not to exceed two hundred fifty dollars (\$250) every year in an amount sufficient to cover its costs in administering the approval process under this section. No fee shall be charged for the approval of local governmental entities.

(C) The probation department has the sole authority to approve the issuance, denial, suspension, or revocation of approval and to cease new enrollments or referrals to a batterer's program under this section. The probation department shall review information relative to a program's performance or failure to adhere to standards, or both. The probation department may suspend or revoke any approval issued under this subdivision or deny an application to renew an approval or to modify the terms and conditions of approval, based on grounds established by probation, including, but not limited to, either of the following:

(i) Violation of this section by any person holding approval or by a program employee in a program under this section.

(ii) Misrepresentation of any material fact in obtaining the approval.

(6) For defendants who are chronic users or serious abusers of drugs or alcohol, standard components in the program shall include concurrent counseling for substance abuse and violent behavior, and in appropriate cases, detoxification and abstinence from the abused substance.

(7) The program shall conduct an exit conference that assesses the defendant's progress during his or her participation in the batterer's program.

(d) This section shall become operative on January 1, 2010.

SEC. 44. Section 7501 of the Penal Code is amended to read:

7501. In order to address the public health crisis described in Section 7500, it is the intent of the Legislature to do all of the following:

(a) Establish a procedure through which custodial and law enforcement personnel are required to report certain situations and may request and be granted a confidential test for HIV or for hepatitis B or C of an inmate convicted of a crime, or a person arrested or taken into custody, if the custodial or law enforcement officer has reason to believe that he or she has come into contact with the blood or semen of an inmate or in any other manner has come into contact with the inmate in a way that could result in HIV infection, or the transmission of hepatitis B or C, based on the latest determinations and conclusions by the federal Centers for Disease Control and Prevention and the State Department of Public Health on means for the transmission of AIDS or hepatitis B and C, and if appropriate medical authorities, as provided in this title, reasonably believe there is good medical reason for the test.

(b) Permit inmates to file similar requests stemming from contacts with other inmates.

(c) Require that probation and parole officers be notified when an inmate being released from incarceration is infected with AIDS or hepatitis B or C, and permit these officers to notify certain persons who will come into contact with the parolee or probationer, if authorized by law.

(d) Authorize prison medical staff authorities to require tests of a jail or prison inmate under certain circumstances, if they reasonably believe, based upon the existence of supporting evidence, that the inmate may be suffering from HIV infection or AIDS or hepatitis B or C and is a danger to other inmates or staff.

(e) Require supervisory and medical personnel of correctional institutions to which this title applies to notify staff if they are coming into close and direct contact with persons in custody who have tested positive or who have AIDS or hepatitis B or C, and provide appropriate counseling and safety equipment.

SEC. 45. Section 7502 of the Penal Code is amended to read:

7502. As used in this title, the following terms shall have the following meanings:

(a) "Correctional institution" means any state prison, county jail, city jail, Division of Juvenile Justice facility, county- or city-operated juvenile facility, including juvenile halls, camps, or schools, or any other state or local correctional institution, including a court facility.

(b) "Counseling" means counseling by a licensed physician and surgeon, registered nurse, or other health professional who meets guidelines which shall be established by the State Department of Public Health for purposes of providing counseling on AIDS and hepatitis B and C to inmates, persons in custody, and other persons pursuant to this title.

(c) "Law enforcement employee" means correctional officers, peace officers, and other staff of a correctional institution, California Highway Patrol officers, county sheriff's deputies, city police officers, parole officers, probation officers, and city, county, or state employees including but not limited to, judges, bailiffs, court personnel, prosecutors and staff, and public defenders and staff, who, as part of the judicial process involving an inmate of a correctional institution, or a person charged with a crime, including a minor charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, are engaged in the custody, transportation, prosecution, representation, or care of these persons.

(d) "AIDS" means acquired immune deficiency syndrome.

(e) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.

(f) "HIV test" or "HIV testing" means any clinical laboratory test approved by the federal Food and Drug Administration for HIV, component of HIV, or antibodies to HIV.

(g) "Inmate" means any of the following:

(1) A person in a state prison, or city and county jail, who has been either convicted of a crime or arrested or taken into custody, whether or not he or she has been charged with a crime.

(2) Any person in a Division of Juvenile Justice facility, or county- or city-operated juvenile facility, who has committed an act, or been charged with committing an act specified in Section 602 of the Welfare and Institutions Code.

(h) "Bodily fluids" means blood, semen, or any other bodily fluid identified by either the federal Centers for Disease Control and Prevention or State Department of Public Health in appropriate regulations as capable of transmitting HIV or hepatitis B or C.

(i) "Minor" means a person under 15 years of age.

SEC. 46. Section 7510 of the Penal Code is amended to read:

7510. (a) A law enforcement employee who believes that he or she came into contact with bodily fluids of either an inmate of a correctional institution, a person not in a correctional institution who has been arrested or taken into custody whether or not the person has been charged with a crime, including a person detained for or charged with an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, a person charged with any crime, whether or not the person is in custody, or a person on probation or parole due to conviction of a crime, shall report the incident through the completion of a form provided by the State Department of Public Health. The form shall be directed to the chief medical officer, as defined in subdivision (c), who serves the applicable law enforcement employee. Utilizing this form the law enforcement employee may request a test for HIV or hepatitis B or C of the person who is the subject of the report. The forms may be combined with regular incident reports or other forms used by the correctional institution or law enforcement agency, however the processing of a form by the chief medical officer containing a request for HIV or hepatitis B or C testing of the subject person shall not be delayed by the processing of other reports or forms.

(b) The report required by subdivision (a) shall be submitted by the end of the law enforcement employee's shift during which the incident occurred, or if not practicable, as soon as possible, but no longer than two days after the incident, except that the chief medical officer may waive this filing period requirement if he or she finds that good cause exists. The report shall include names of witnesses to the incident, names of persons involved in the incident, and if feasible, any written statements from these parties. The law enforcement employee shall assist in the investigation of the incident, as requested by the chief medical officer.

(c) For purposes of this section, Section 7502, and Section 7511, "chief medical officer" means:

(1) In the case of a report filed by a staff member of a state prison, the chief medical officer of that facility.

(2) In the case of a parole officer filing a report, the chief medical officer of the nearest state prison.

(3) In the case of a report filed by an employee of the Division of Juvenile Justice, the chief medical officer of the facility.

(4) In the case of a report filed against a subject who is an inmate of a city or county jail or a county- or city-operated juvenile facility, or a court facility, or who has been arrested or taken into custody whether or not the person has been charged with a crime, but who is not in a correctional facility, including a person detained for, or charged with, an offense for which he or she may be made a ward of the court under Section 602 of the Welfare and Institutions Code, or a person charged with a crime, whether or not the person is in custody, the county health officer of the county in which the individual is jailed or charged with the crime.

(5) In the case of a report filed by a probation officer, a prosecutor or staff person, a public defender attorney or staff person, the county health officer of the county in which the probation officer, prosecutor or staff person, a public defender attorney or staff person, is employed.

(6) In any instance where the chief medical officer, as determined pursuant to this subdivision, is not a physician and surgeon, the chief medical officer shall designate a physician and surgeon to perform his or her duties under this title.

SEC. 47. Section 13823.15 of the Penal Code is amended to read:

13823.15. (a) The Legislature finds the problem of domestic violence to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services are underfunded and that some areas of the state are unserved or underserved. Therefore, it is the intent of the Legislature that a goal or purpose of the Office of Emergency Services (OES) shall be to ensure that all victims of domestic violence served by the OES Comprehensive Statewide Domestic Violence Program receive comprehensive, quality services.

(b) There is in the OES a Comprehensive Statewide Domestic Violence Program. The goals of the program shall be to provide local assistance to existing service providers, to maintain and expand services based on a demonstrated need, and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. The OES shall provide financial and technical assistance to local domestic violence centers in implementing all of the following services:

- (1) Twenty-four-hour crisis hotlines.
- (2) Counseling.
- (3) Business centers.
- (4) Emergency "safe" homes or shelters for victims and families.
- (5) Emergency food and clothing.
- (6) Emergency response to calls from law enforcement.
- (7) Hospital emergency room protocol and assistance.
- (8) Emergency transportation.
- (9) Supportive peer counseling.
- (10) Counseling for children.
- (11) Court and social service advocacy.
- (12) Legal assistance with temporary restraining orders, devices, and custody disputes.
- (13) Community resource and referral.
- (14) Household establishment assistance.

Priority for financial and technical assistance shall be given to emergency shelter programs and "safe" homes for victims of domestic violence and their children.

(c) Except as provided in subdivision (f), the OES and the advisory committee established pursuant to Section 13823.16 shall collaboratively administer the Comprehensive Statewide Domestic Violence Program, and shall allocate funds to local centers meeting the criteria for funding. All

organizations funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment any state funds received pursuant to this section.

Centers receiving funding shall provide cash or an in-kind match of at least 10 percent of the funds received pursuant to this section.

(d) The OES shall conduct statewide training workshops on domestic violence for local centers, law enforcement, and other service providers designed to enhance service programs. The workshops shall be planned in conjunction with practitioners and experts in the field of domestic violence prevention. The workshops shall include a curriculum component on lesbian, gay, bisexual, and transgender specific domestic abuse.

(e) The OES shall develop and disseminate throughout the state information and materials concerning domestic violence. The OES shall also establish a resource center for the collection, retention, and distribution of educational materials related to domestic violence. The OES may utilize and contract with existing domestic violence technical assistance centers in this state in complying with the requirements of this subdivision.

(f) The funding process for distributing grant awards to domestic violence shelter service providers (DVSSPs) shall be administered by the OES as follows:

(1) The OES shall establish each of the following:

(A) The process and standards for determining whether to grant, renew, or deny funding to any DVSSP applying or reapplying for funding under the terms of the program.

(B) For DVSSPs applying for grants under the request for proposal process described in paragraph (2), a system for grading grant applications in relation to the standards established pursuant to subparagraph (A), and an appeal process for applications that are denied. A description of this grading system and appeal process shall be provided to all DVSSPs as part of the application required under the RFP process.

(C) For DVSSPs reapplying for funding under the request for application process described in paragraph (4), a system for grading the performance of DVSSPs in relation to the standards established pursuant to subparagraph (A), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all DVSSPs receiving grants under this program.

(2) Grants for shelters that were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for domestic violence shelter funding, and to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.

(3) Grants shall be awarded to DVSSPs that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new domestic

violence shelters in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(4) DVSSPs reapplying for grants shall not be subject to a competitive grant process, but shall be subject to a request for application (RFA) process. The RFA process shall consist in part of an assessment of the past performance history of the DVSSP in relation to the standards established pursuant to paragraph (1). The RFA process shall comply with all applicable state and federal statutes for domestic violence center funding, and to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(5) Any DVSSP funded through this program in the previous grant cycle, including any DVSSP funded by Chapter 707 of the Statutes of 2001, shall be funded upon reapplication, unless, pursuant to the assessment required under the RFA process, its past performance history fails to meet the standards established by the OES pursuant to paragraph (1).

(6) The OES shall conduct a minimum of one site visit every three years for each DVSSP funded pursuant to this subdivision. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each shelter visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

- (A) Progress in meeting program goals and objectives.
- (B) Agency organization and facilities.
- (C) Personnel policies, files, and training.
- (D) Recordkeeping, budgeting, and expenditures.
- (E) Documentation, data collection, and client confidentiality.

(7) After each site visit conducted pursuant to paragraph (6), the OES shall provide a written report to the DVSSP summarizing the performance of the DVSSP, any deficiencies noted, any corrective action needed, and a deadline for corrective action to be completed. The OES shall also develop a corrective action plan for verifying the completion of any corrective action required. The OES shall submit its written report to the DVSSP no more than 60 days after the site visit. No grant under the RFA process shall be denied if the DVSSP has not received a site visit during the previous three years, unless the OES is aware of criminal violations relative to the administration of grant funding.

(8) If an agency receives funding from both the Comprehensive Statewide Domestic Violence Program in the Office of Emergency Services and the Maternal and Child Health Branch of the State Department of Public Health during any grant cycle, the Comprehensive Statewide Domestic Violence Program and the Maternal and Child Health Branch shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(9) DVSSPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct

may be considered in the next RFA process. However, the OES shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a DVSSP fails to comply, or if other deficiencies exist that, in the judgment of the OES, cannot be corrected, the OES shall determine, using its grading system, whether continued funding for the DVSSP should be reduced or denied altogether. If a DVSSP has been determined to be deficient, the OES may, at any point during the DVSSP's funding cycle following the expiration of the period for corrective action, deny or reduce any further funding.

(10) If a DVSSP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the DVSSP, along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, any appeal of the decision to deny or reduce funding shall be made in accordance with the appeal process established by the OES. The appeal process shall allow a DVSSP a minimum of 30 days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(11) It is the intent of the Legislature that priority for additional funds that become available shall be given to currently funded, new, or previously unfunded DVSSPs for expansion of services. However, the OES may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the OES shall have the authority to lower the base level of grants to all currently funded DVSSPs in order to provide funding for currently funded, new, or previously unfunded DVSSPs that will provide services in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded DVSSPs. After the amount of funding reductions has been determined, DVSSPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(12) Notwithstanding any other provision of this section, OES may reduce funding to a DVSSP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding shall not be subject to appeal.

(13) Nothing in this section shall be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.

(14) As a condition of receiving funding pursuant to this section, DVSSPs shall do all of the following:

(A) Provide matching funds or in-kind contributions equivalent to not less than 10 percent of the grant they would receive. The matching funds

or in-kind contributions may come from other governmental or private sources.

(B) Ensure that appropriate staff and volunteers having client contact meet the definition of “domestic violence counselor” as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(15) The following definitions shall apply for purposes of this subdivision:

(A) “Domestic violence” means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, including physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that woman.

(B) “Domestic violence shelter service provider” or “DVSSP” means a victim services provider that operates an established system of services providing safe and confidential emergency housing on a 24-hour basis for victims of domestic violence and their children, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(C) “Emergency shelter” means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(g) The OES may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The OES shall not utilize more than 10 percent of any funds appropriated for the purpose of the program established by this section for the administration of that program.

SEC. 48. Section 13557 of the Water Code is amended to read:

13557. (a) On or before July 1, 2008, the department, in consultation with the State Department of Public Health, shall adopt and submit to the California Building Standards Commission regulations to establish a state version of Appendix J of the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials to provide design standards to safely plumb buildings with both potable and recycled water systems.

(b) The department shall adopt regulations pursuant to subdivision (a) only if the Legislature appropriates funds for that purpose.

SEC. 49. Section 32601 of the Water Code is amended to read:

32601. (a) The Legislature hereby finds and declares that the use of potable domestic water for nonpotable uses for cemeteries, parks, highway landscaped areas, new industrial facilities, and golf course irrigation is a waste and an unreasonable use of the water within the meaning of Section 2 of Article X of the California Constitution, if nonpotable water, including recycled water, is available under all of the following conditions as determined by the board, after notice to any person or local public agency that may be ordered to use nonpotable water or to cease using potable water

and a hearing held by the board if requested by the person or local public agency:

(1) The board determines that the source of nonpotable water is of adequate quality for the proposed use and is available for that use. In determining adequate quality, the board shall consider all relevant factors, including, but not limited to, food and employee safety, and level and types of specific constituents in the nonpotable water affecting the use, on a user-by-user basis. In addition, the board shall consider the effect of the use of nonpotable water in lieu of potable water on the generation of hazardous waste and on the quality of wastewater discharges subject to permit.

(2) The board determines that the nonpotable water may be furnished for the proposed use at a reasonable cost to the user. In determining reasonable cost, the board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying, delivering, and treating potable domestic water for the proposed use and the present and projected costs of supplying and delivering nonpotable water for that use, and finds that the cost of supplying the nonpotable water is comparable to, or less than, the cost of supplying potable domestic water.

(3) The State Department of Public Health determines that the use of nonpotable water from the proposed source will not be detrimental to public health.

(4) The California regional water quality control board determines that the use of nonpotable water from the proposed source will comply with any applicable water quality control plan.

(5) The board determines that the use of nonpotable water for the proposed use will not adversely affect groundwater rights, will not degrade water quality, and is determined not to be injurious to plant life, fish, and wildlife.

(b) In making the determination described in subdivision (a), the board shall consider the impact of the cost and quality of the nonpotable water on each individual user.

(c) The board may require a person or public agency to furnish information that the board determines to be relevant to making the determinations described in subdivision (a).

SEC. 50. Section 14043.46 of the Welfare and Institutions Code is amended to read:

14043.46. (a) Notwithstanding any other provision of law, on the effective date of the act adding this section, the department may implement a one-year moratorium on the certification and enrollment into the Medi-Cal program of new adult day health care centers on a statewide basis or within a geographic area.

(b) The moratorium shall not apply to the following:

(1) Programs of All-Inclusive Care for the Elderly (PACE) established pursuant to Chapter 8.75 (commencing with Section 14590).

(2) An organization that currently holds a designation as a federally qualified health center as defined in Section 1396d(l)(2) of Title 42 of the United States Code.

(3) An organization that currently holds a designation as a federally qualified rural health clinic as defined in Section 1396d(l)(1) of Title 42 of the United States Code.

(4) An applicant with the physical location of the center in an unserved area, which is defined as a county having no licensed and certified adult day health care center within its geographic boundary.

(5) Commencing May 1, 2006, an applicant for certification that meets all of the following:

(A) Is serving persons discharged into community housing from a nursing facility operated by the City and County of San Francisco.

(B) Has submitted, after December 31, 2005, but prior to February 1, 2006, an application for certification that has not been denied.

(C) Meets all criteria for certification imposed under this article and is licensed as an adult day health care center pursuant to Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code.

(6) An applicant that is requesting expansion or relocation, or both, that has been Medi-Cal certified as an adult day health care center for at least four years, is expanding or relocating within the same county, and that meets one of the following population-based criteria:

(A) The county is ranked number one or two for having the highest ratio of persons over 65 years of age receiving Medi-Cal benefits.

(B) The county is ranked number one or two for having the highest ratio of persons over 85 years of age residing in the county.

(C) The county is ranked number one or two for having the greatest ratio of persons over 65 years of age living in poverty.

(7) An applicant for certification that is currently licensed and located in a county with a population that exceeds 9,000,000 and meets the following criteria:

(A) The applicant has identified a special population of regional center consumers whose individual program plan calls for the specialized health and social services that are uniquely provided within the adult day health care center, in order to prevent deterioration of the special population's health status.

(B) The referring regional center submits a letter to the Director of Health Care Services supporting the applicant for certification as an adult day health care provider for this special population.

(C) The applicant is currently providing services to the special population as a vendor of the referring regional center.

(D) The participants in the center are clients of the referring regional center and are not residing in a health facility licensed pursuant to subdivision (c), (d), (g), (h), or (k) of Section 1250 of the Health and Safety Code.

(c) The moratorium shall not prohibit the department from approving a change of ownership, relocation, or increase in capacity for an adult day health care center if the following conditions are met:

(1) For an application to change ownership, the adult day health care center meets all of the following conditions:

(A) Has been licensed and certified prior to the effective date of this section.

(B) Has a license in good standing.

(C) Has a record of substantial compliance with certification laws and regulations.

(D) Has met all requirements for the change application.

(2) For an application to relocate an existing facility, the relocation center must meet all of the conditions of paragraph (1) and both of the following conditions:

(A) Must be located in the same county as the existing licensed center.

(B) Must be licensed for the same capacity as the existing licensed center, unless the relocation center is located in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(3) For an application to increase the capacity of an existing facility, the center must meet all of the conditions of paragraph (1) and must be located in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(d) Following the first 180 days of the moratorium period, the department may make exceptions to the moratorium for new adult day health care centers that are located in underserved areas if the center's application was on file with the department on or before the effective date of the act adding this section. In order to apply for this exemption, an applicant or licensee must meet all of the following criteria:

(1) The applicant has control of a facility, either by ownership or lease agreement, that will house the adult day health care center, has provided to the department all necessary documents and fees, and has completed and submitted all required fingerprinting forms to the department.

(2) The physical location of the applicant's or licensee's adult day health care center is in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(e) During the period of the moratorium, a licensee or applicant that meets the criteria for an exemption as defined in subdivision (d) may submit a written request for an exemption to the director.

(f) If the director determines that a new adult day health care licensee or applicant meets the exemption criteria, the director may certify the licensee or applicant, once licensed, for participation in the Medi-Cal program.

(g) The director may extend this moratorium, if necessary, to coincide with the implementation date of the adult day health care waiver.

(h) The authority granted in this section shall not be interpreted as a limitation on the authority granted to the department in any other section.

SEC. 51. Section 14087.54 of the Welfare and Institutions Code is amended to read:

14087.54. (a) Any county or counties may establish a special commission in order to meet the problems of the delivery of publicly assisted medical care in the county or counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) (1) A county board of supervisors may, by ordinance, establish a commission to negotiate the exclusive contract specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter. The boards of supervisors of more than one county may also establish a single commission with the authority to negotiate an exclusive contract and to arrange for the provision of services in those counties. If a board of supervisors elects to enact this ordinance, all rights, powers, duties, privileges, and immunities vested in a county by this article shall be vested in the county commission. Any reference in this article to “county” shall mean a commission established pursuant to this section.

(2) A commission operating pursuant to this section may also enter into contracts for the provision of health care services to persons who are eligible to receive medical benefits under any publicly supported program, if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs. The commission shall not use any payments or reserves from the Medi-Cal program for this purpose.

(3) In addition to the authority specified in paragraph (1), the board of supervisors may, by ordinance, authorize the commission established pursuant to this section to provide health care delivery systems for any or all of the following persons:

(A) Persons who are eligible to receive medical benefits under both Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) and Title 19 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(B) Persons who are eligible to receive medical benefits under Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395).

(C) Other individuals or groups in the service area, including, but not limited to, public agencies, private businesses, and uninsured or indigent persons. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this subparagraph.

(4) Nothing in this section shall prohibit a commission established pursuant to this section from providing services pursuant to subparagraph (C) of paragraph (3) in counties other than the commission’s county if the commission is approved by the Department of Managed Health Care to provide services in those counties. The commission shall not use any payment or reserve from the Medi-Cal program for purposes of this paragraph.

(5) For purposes of providing services to persons described in subparagraph (A) or (B) of paragraph (3), if the commission seeks a contract

with the federal Centers for Medicare and Medicaid Services to provide Medicare services as a Medicare Advantage program, the commission shall first obtain a license under the Knox-Keene Health Care Service Plan Act (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(6) With respect to the provision of services for persons described in subparagraph (A) or (B) of paragraph (3), the commission shall conform to applicable state licensing and freedom of choice requirements as directed by the federal Centers for Medicare and Medicaid Services.

(7) Any material, provided to a person described in subparagraph (A) or (B) of paragraph (3) who is dually eligible to receive medical benefits under both the Medi-Cal program and the Medicare Program, regarding the enrollment or availability of enrollment in Medicare services established by the commission shall include notice of all of the following information in the following format:

(A) Medi-Cal eligibility will not be lost or otherwise affected if the person does not enroll in the plan for Medicare benefits.

(B) The person is not required to enroll in the Medicare plan to be eligible for Medicare benefits.

(C) The person may have other choices for Medicare coverage and for further assistance may contact the federal Centers for Medicare and Medicaid Services (CMS) at 1-800-MEDICARE or www.Medicare.gov.

(D) The notice shall be in plain language, prominently displayed, and translated into any language other than English that the commission is required to use in communicating with Medi-Cal beneficiaries.

(c) It is the intent of the Legislature that if a county forms a commission pursuant to this section, the county shall, with respect to its medical facilities and programs occupy no greater or lesser status than any other health care provider in negotiating with the commission for contracts to provide health care services.

(d) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as a board of supervisors deems necessary or convenient for the conduct of the county commission's activities. A commission so established shall be considered an entity separate from the county or counties, shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, and shall file the statement required by Section 53051 of the Government Code. The commission shall have in addition to the rights, powers, duties, privileges, and immunities previously conferred, the power to acquire, possess, and dispose of real or personal property, as may be necessary for the performance of its functions, to employ personnel and contract for services required to meet its obligations, to sue or be sued, and to enter into agreements under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Any obligations of a commission, statutory, contractual, or otherwise, shall be the obligations

solely of the commission and shall not be the obligations of the county or of the state.

(e) Upon creation, a commission may borrow from the county or counties, and the county or counties may lend the commission funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations.

(f) In the event a commission may no longer function for the purposes for which it was established, at the time that the commission's then existing obligations have been satisfied or the commission's assets have been exhausted, the board or boards of supervisors may by ordinance terminate the commission.

(g) Prior to the termination of a commission, the board or boards of supervisors shall notify the State Department of Health Care Services of its intent to terminate the commission. The department shall conduct an audit of the commission's records within 30 days of the notification to determine the liabilities and assets of the commission. The department shall report its findings to the board or boards within 10 days of completion of the audit. The board or boards shall prepare a plan to liquidate or otherwise dispose of the assets of the commission and to pay the liabilities of the commission to the extent of the commission's assets, and present the plan to the department within 30 days upon receipt of these findings.

(h) Upon termination of a commission by the board or boards, the county or counties shall manage any remaining assets of the commission until superseded by a department approved plan. Any liabilities of the commission shall not become obligations of the county or counties upon either the termination of the commission or the liquidation or disposition of the commission's remaining assets.

(i) Any assets of a commission shall be disposed of pursuant to provisions contained in the contract entered into between the state and the commission pursuant to this article.

(j) Nothing in this section shall be construed to supersede Section 14093.06 or 14094.3.

SEC. 52. Section 15904 of the Welfare and Institutions Code is amended to read:

15904. (a) The State Department of Health Care Services shall issue a request for applications for funding the Health Care Coverage Initiative.

(b) The department shall allocate federal funds available to be claimed under the Health Care Coverage programs.

(c) The department shall select the Health Care Coverage programs that best meet the requirements and desired outcomes set forth in this part.

(d) The following elements shall be used in evaluating the proposals to make selections and to determine the allocation of the available funds:

(1) Enrollment processes, with an identification system to demonstrate enrollment of the uninsured into the program.

(2) Use of a medical record system, which may include electronic medical records.

(3) Designation of a medical home and assignment of eligible individuals to a primary care provider. For purposes of this paragraph, "medical home"

means a single provider or facility that maintains all of an individual's medical information. The primary care provider shall be a provider from which the enrollee can access primary and preventive care.

(4) Provision of a benefit package of services, including preventive and primary care services, and care management services designed to treat individuals with chronic health care conditions, mental illness, or who have high costs associated with their medical conditions, to improve their health and decrease future costs. Benefits may include case management services.

(5) Quality monitoring processes to assess the health care outcomes of individuals enrolled in the Health Care Coverage program.

(6) Promotion of the use of preventive services and early intervention.

(7) The provision of care to Medi-Cal beneficiaries by the applicant and the degree to which the applicant coordinates its care with services provided to Medi-Cal beneficiaries.

(8) Screening and enrollment processes for individuals who may qualify for enrollment into Medi-Cal, the Healthy Families Program, and the Access for Infants and Mothers Program prior to enrollment into the Health Care Coverage program.

(9) The ability to demonstrate how the Health Care Coverage program will promote the viability of the existing safety net health care system.

(10) Documentation to support the applicant's ability to implement the Health Care Coverage program by September 1, 2007, and to use its allocation for each project year.

(11) Demonstration of how the program will provide consumer assistance to individuals applying to, participating in, or accessing services in the program.

(e) Entities eligible to apply for the initiative funds are a county, city and county, consortium of counties serving a region consisting of more than one county, or health authority. No entity shall submit more than one proposal.

(f) The department shall rank the program applications based on the criteria in this section. The amount of federal funding available to be claimed shall be allocated based upon the ranking of the applications. The department shall allocate the available federal funding to the highest ranking applications until all of the funding is allocated. The department shall select at least five programs, and no single program shall receive an allocation greater than 30 percent of the total federal allotment. The department is not required to fund the entire amount requested in a program application.

(g) The department shall seek to balance the allocations throughout geographic areas of the state.

(h) Each county, city and county, consortium of counties, or health authority that is selected to receive funding shall provide the necessary local funds for the nonfederal share of the certified public expenditures, or intergovernmental transfers to the extent allowable under the demonstration project, required to claim the federal funds made available from the federal allotment. The certified public expenditures, or intergovernmental transfers to the extent allowable under the demonstration project, shall meet the

requirements of the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion that became effective September 1, 2005.

(i) The federal allocation shall be available to the selected programs for the three-year period covering the Health Care Coverage program pursuant to the Special Terms and Conditions of California's Section 1115 Medicaid demonstration project waiver number 11-W-00193/9 relating to hospital financing and health coverage expansion, unless the selected programs do not incur expenditures sufficient to claim the allocation of federal funds in the particular program year. Selected programs shall expend the funds according to an expenditure schedule determined by the department.

(j) The department may reallocate the available federal funds among selected programs or other program applicants that were previously not selected for funding, if necessary to meet federal requirements regarding the timing of expenditures, notwithstanding subdivision (f). If a selected program fails to substantially comply with the requirements of this article, the department may reallocate the available federal funds from that selected program to other selected programs or other program applications that previously were not selected for funding. If a selected program is unable to meet its spending targets, determined at the end of the second quarter of each program year, the department may reallocate funds to other selected programs or other program applications that previously were not selected for funding, to ensure that all available federal funds are claimed. Selected programs receiving reallocated funds must have the ability to make the certified public expenditures necessary to claim the reallocated federal funds.

(k) Federal funds provided for the initiative shall supplement, and not supplant, any county, city and county, health authority, state, or federal funds that would otherwise be spent on health care services in the county, city and county, consortium of counties, or a health authority region. Federal funds allocated under the initiative shall reimburse the selected county, city and county, consortium of counties, or health authority for the benefits and services provided under subdivision (d) of Section 15904. Administrative costs associated with the development and management of the initiative shall not be paid from the Health Care Coverage program allocation, and any allocations for administrative funds shall be in addition to the allocations made for the initiative.

SEC. 53. Section 16953.3 of the Welfare and Institutions Code is amended to read:

16953.3. (a) Notwithstanding any other restrictions on reimbursement, a county shall adopt a fee schedule to establish a uniform, reasonable level of reimbursement from the Physician Services Account for reimbursable services.

(b) (1) Notwithstanding any other restrictions on reimbursement, the State Department of Public Health shall adopt a single fee schedule to establish a uniform, reasonable level of reimbursement for use in the

physician services reimbursement programs operated by the department pursuant to contract, as provided for in subdivision (c) of Section 16952.

(2) The State Department of Public Health may develop, contract for the development of, or adopt by reference, the fee schedule required by paragraph (1).

(3) Pursuant to subdivision (d) of Section 16952, the State Department of Public Health may be reimbursed by the Physician Services Account and the Hospital Services Account based on actual administrative costs to develop or adopt the fee schedule required by paragraph (1), not to exceed 10 percent of the amount of the account.

(4) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this subdivision by means of provider bulletins, or similar instruction, without taking formal regulatory action.

SEC. 54. Section 2 of Chapter 610 of the Statutes of 2006 is amended to read:

Sec. 2. (a) The Legislature finds and declares both of the following:

(1) Given the rich heritage and traditions of Asian-Americans, a process must be considered to allow for foods tied to traditional Asian ceremonies to be sold and consumed according to those traditions.

(2) Requiring food retailers to follow health and sanitation standards is necessary to preserve public health.

(b) (1) The State Department of Public Health shall conduct a study of the sale and consumption of Banh Chung, Banh Tet, and moon cakes, as a means of finding methods that may permit the sale and consumption of these foods at traditional Asian ceremonies and cultural events while providing adequate health and sanitation standards that protect public health.

(2) The department shall submit this study to the Legislature by January 1, 2008.

SEC. 55. Any section of any act, other than the act for the maintenance of the codes, enacted by the Legislature during the 2007 calendar year that takes effect on or before January 1, 2008, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended by this act, shall prevail over the amendment of that section by this act whether that act is enacted prior to, or subsequent to, the enactment of this act.